EXHIBIT A

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

REPORT OF THE COMMISSION STAFF

CASE NO. PUC-2008-00047

REVISION OF RULES FOR LOCAL EXCHANGE TELECOMMUNICATIONS COMPANY SERVICE QUALITY STANDARDS

MARCH 27, 2009

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INTRODUCTION

On December 15, 2008, the State Corporation Commission ("Commission") entered a Second Order for Notice and Hearing ("Second Order") in connection with its revised proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality ("Revised Proposed Rules"). Among the provisions of the Second Order was a directive for the Staff to file a report on the issues raised in the Second Order and in response to any comments filed in the proceeding. Herein is the Staff's Report.

SUMMARY OF COMMENTS

The following summary of comments in Case No. PUC-2008-00047 is limited to those comments filed after the Commission's Second Order in this case issued December 15, 2008.

Battinto L. Batts

Mr. Batts comments that "the Guidelines should be flexible and addressable to the needs of private/public individuals who are living with a disability. A section of the Guidelines should require service be restored to those with predetermined and, therefore, legal disabilities."

William H Beckner

Mr. Beckner stated, "We need service standards. When I reported no service on my phone to Verizon I was told it would take ten (10) days for a repair. I had reported the problem two (2) days earlier. That would total twelve (12) days without phone service. That is twelve days without emergency 911 services. What if I had a medical emergency or fire and had to rely on a neighbor to call for me? My Verizon Wireless phone is not reliable in the area that I live. All Verizon would say was "We are sorry." This is not an acceptable level of service for a public utility."

Tainer W. Whitehurst

Mr. Whitehurst comments that "I think the response time for repair visits, are absolutely awful, when I worked for the local telephone company (C&P) the commitment times were 1 hour for business customers and 2 hours for residential, that was good service. I worked at C&P for 30+ yrs."

Jennifer A Jones

Ms. Jones comments that she has to say something regarding Service Quality Standards and Verizon. She says that she requested a transfer of service a month before the move and had advised of her son's critical health impairment and the need for telephone service. Verizon missed the service installation date and despite repeated calls service was not provided for two months. She states that Verizon never provided an explanation to her of why it didn't provide service or why it took talking to five operators to cancel the service. Finally, in desperation, she applied for service from Comcast and has been very satisfied. She states, "Had Verizon … met the standards that the president of the company set in place for Customer Service and Satisfaction, this should never ever have happened!"

Daniel H Casey

Mr. Casey comments that "had 20VAC5-428-90 B. 1 & 2 as proposed been in place since July 2008 my home would have had an additional 24 days of service and I would have been saved hours of time on the phone dealing with Verizon. Since July we have experienced 3 outages and one crossed wire episode resulting in 30 days without phone service. Routinely our outage repairs were scheduled to be completed 10 to 14 days after the report was filed. I would encourage the Commission to address three additional items 1) credits given for out of service time should be proportional to the total charges; 2) agents should provide direct numbers so when a customer is disconnected it is possible to get right back to the same agent and not be forced to start over or that the agent should be required to call the customer; and 3) when an agent finds it necessary to transfer a customer to another agent the first agent should stay on the line until it has been determined that the new agent is in fact the person that can resolve the issue."

Donnie L. Tate

Mr. Tate's comments express concern about customers of Gate City having to pay long distance rates to call just across the state line into Tennessee.

Nicholas R. Beltrante, Esq.

Mr. Beltrante has made two comments both of which have been filed in this case. He first states in an email that he requested his billing date be changed to accommodate the arrival of his retirement income monthly. He says as a result of Verizon's refusal to change his due date that he is required to pay a late fee. He considers Verizon's refusal to comply with his request unacceptable and a policy that violates the quality of the telephone service in Virginia.

Mr. Beltrante also asks that his earlier letter to the Commission be included in the case. In that letter Mr. Beltrante states, "I am an 81-year old senior citizen in poor health. At 11:30 am on Monday, January 5, 2009, I called Verizon...for clarification of certain charges on my telephone bill. I received a recorded voice message stating 'all of our representatives are now busy - if you wish to wait - your call will be answered in approximately six (6) minutes.' I remained on the telephone doing various chores until 1:00 pm - at which time I hung up.

Later the same day at 4:45 pm, I called again. A recorded voice message stated 'all of our representatives are busy - Please leave your name and telephone number and we will return your call in approximately six (6) minutes.' I did leave my name and telephone number. There was no prompt response.

While asleep at 1:13 am on Tuesday, January 6, 2009, I received a telephone call with a recorded message stating 'this is Verizon calling returning Mr. Beltrante's call. If this person is not available, please press "3" on your telephone,' which I did. At 1:24 am, same date, I received a second telephone call with the same previous recorded voice message. Note: these calls were verified on my caller id screen.

Due to the intrusion and my frustration, I was unable to sleep. This action on the part of Verizon is inexcusable. I respectfully request the SCC investigate this matter and take appropriate action..."

Tracy Garrett

Ms. Garrett comments that she agrees with the minimum service requirements set forth by the SCC standards. She has found in the last 18 months that Verizon is not meeting these standards. She wants the Commission to enforce the standards set forth. She comments that when an outage occurs your calls are answered timely but you are given a response two weeks hence. Not within the 24 to 48 hours anticipated. She adds that she had a recurring problem for six months and that it was finally fixed after she called the Commission Staff in January. Ms. Garrett states that she was not given a bill credit for the service outages and asks, "Why is the carrier permitted to charge for a service they are not providing?"

She would like for the SCC to promote and enforce the service quality standards set forth. She believes that she is not the only customer having issues in her area because of conversations with others.

Nancy P. Sykes

Ms. Sykes comments upon her experiences with Verizon last fall in hopes that the SCC improves regulations. She states that she is a long term Verizon customer that rarely needed service and it was always prompt. She commends Verizon for their extreme efforts made during Hurricane Isabel. The following is an excerpt from her comments:

> Unfortunately, on September 30, 2008 my service stopped abruptly-no dial tone. A call to the service line … resulted in suggestions for me to try. Final determination: service call needed. First available date: October 17!
> On Friday, October 17, I stayed home all day and the repairman was a no-show. On Sunday, October 19, I came home from church to find a note on the door. The repairman had made an unscheduled visit. Later I received an email message stating that the problem had been "resolved." Of course, this was not true. I called the service department again. They could do nothing but reschedule-October 29! A very nice, competent repairman did arrive that day. My service has been fine since. I did call customer service and received a $45 credit on basic service. However, a one-month wait for service restoration did seem excessive.

She closes her comments saying she hopes it is possible to restore the requirements and state supervision that will allow a return to the service enjoyed in the past.

Chris Barnert

Mr. Barnert comments that Verizon did not respond to his complaint letter sent to Mr. Seidenberg [Verizon's Chairman and CEO] and that the 90 percent on repair commitment seems low. Mr. Barnert also states in his letter to Mr. Seidenberg that it is very costly and inconvenient for customers to take additional time off or miss their own scheduled appointments in order to accommodate Verizon. He says that it would have been better for him if the Verizon technician simply arrived later on the same day.

Jennifer Lantrip

Ms. Lantrip states that Verizon installed her service in the wrong building and billed her for service that she could not use. In trying to resolve the problem with Verizon she made 5 trips from Richmond to the service location in Tappahannock, incurred motel costs because of missed appointments, and despite being told that a credit would be made to her account, she never received it. She is hopeful that the service rules will force Verizon to give more careful attention to customer service, which appears to have lapsed. Ms. Lantrip also suggests that every bill contain SCC and FCC (Federal Communications Commission) complaint contact numbers and that Virginia citizens need more information on how to get help from the appropriate agencies.

Joan C. Quinn

The Quinns have been long time Verizon customers and subscribed to FIOS when it was available in 2006 but never received the promised discounted rates. Their service problems started when they attempted to add Verizon's Freedom Essentials to their two lines late last year. From November 29, 2008 until January 9, 2009, they spoke with 35 Verizon employees, first to order long distance service, then to get services restored, and finally to try to get their bill adjusted for service outage and time spent dealing with the company.

Ms. Quinn states, "...the State Corporation Commission ought to have penalties sufficiently severe to encourage Verizon to make timely and accurate responses to a customer's difficulty ... a high priority, whether that penalty be in the form of a fine payable to the customer and/or to the Commission or whether it be a demand for internal management changes." She concludes by stating, "We do not understand how Verizon continues in the communications business with such a lack of internal communications and gross mismanagement."

Adel Farag

Mr. Farag comments that Verizon damaged his driveway in the process of installing its fiber optic cables. Verizon offered to patch my driveway but Mr. Farag did not want a patch job. He wanted his driveway to look the way it looked prior to Verizon starting its "assault" on his property.

Julie Kelly

Ms. Kelly comments that Verizon damaged their property during the installation of FIOS. She states that Verizon will not restore their property back to its prior condition and that Verizon will not provide references to other properties that were repaired satisfactorily. She has only heard complaints and aggravation from anyone that has had their property haphazardly repaired. She states, "It is not right for a big company to lower individual property values so that they can increase their revenue."

Utility Professional Services, Inc.

Utility Professional Services, Inc. re-filed its suggested changes from the prior comment cycle and expressed disappointment with the idea of referring the relocation and rearrangement issue to a committee. "The Commission ignored the concerns about gerrymandering the new service order process to avoid reportable out-of-window installations, as well as LEC delays and performance deficiencies that lead to this practice. The Commission gutted the relocation clause, eliminating it completely, ostensibly referring it to an industry working group, tantamount to a federal referral to committee, where we can trust it will languish unremembered."

Virginia Telecommunications Industry Association ("VTIA")

The VTIA continues to maintain that citizens throughout the entire Commonwealth enjoy excellent telecommunications service from the VTIA member companies. It states that it is therefore unnecessary and burdensome to define a minimum service level and require the routine reporting of adherence to that level. It says that the Rules should not be adopted.

Further, the VTIA states that if the Commission decides to adopt the proposed revisions to the Rules, the Commission must promote its stated finding that "protecting the public health and safety and protecting economic well being should be priorities in ensuring minimum service quality." Therefore, the VTIA recommends numerous modifications that, in its view, focus on promoting the public's health, safety, and economic well-being.

The VTIA suggests: the Rules should not apply to LECs and their business customers where contractual agreements exist; the definition of Network Access Lines should include only voice grade lines (DS0) and not trunk lines; the substance of Rule 90. D be adopted instead as new subsection (C) to Rule 50, with the additional provision of "personal safety" added; the adoption of the Federal Regulations for reporting Service Outages; replacing printed directories for LECs that choose to publish their directories in a different format; the period for calculating the monthly results in each of these Rules be increased from one month to three; the Commission must, after a hearing, direct a LEC to file its results and that the date be delayed until the 30th day of the month following the close of the preceding quarter; and the Commission adopt a rule that will sunset the applicability of the Rules on December 31, 2012, unless previously terminated by the Commission. Additionally, the VTIA supports postponing the consideration of Rule 40 in this proceeding. It opposes adopting Rule 90.A and the Customer Care Performance Standards proposed in Rule 90.B, as they are unnecessary and interfere in the competitive market with potentially harmful effects. It further opposes performance reports from individual central office serving areas, and recommends that Rule 90.C be eliminated in its entirety.

Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel")

Consumer Counsel supports the Commission's finding that protecting public health and safety and economic well being should be priorities when considering minimum acceptable service quality. Upon review of the modifications to the proposed Rules, Consumer Counsel has not identified any problems and supports the Revised Proposed Rules.

Consumer Counsel believes the word "repeat" was inadvertently omitted from revised proposed Rule 90(B)(5). The Rule provides in part that a "LEC shall not exceed a 16% [repeat] report rate, per calendar month, on a statewide basis."

Cox Virginia Telcom ("Cox")

Cox states that the Commission observed that the performance standards set out in Section 20 VAC 5-427-130 of the Current Rules lacked language specifically directing compliance, or a penalty for failure to comply, and that the Revised Proposed Rules would remedy that. Cox maintains that the Revised Proposed Rules include expensive mandatory reporting by all LECs even though the current problems are primarily caused by one company.

Cox asks that the Commission direct its enforcement efforts at the specific LEC that has had service quality problems, rather than at the whole industry, for which service quality is not a problem. The company also believes that mandatory monitoring and reporting could harm competitive LECs and the metrics appear ill-fitted to new technologies and would require expensive software modifications to internal reporting regimes in order to match the purposed rules. Cox proposes an alternative approach in which the Commission would use Proposed Rule 20VAC5-428-100 (Generally inadequate service) and modify proposed Rule 90 to create a trigger for exception reporting.

Cox recommends adding language to allow the Staff to consider reporting that is done on other than a calendar month basis such as a rolling 30 day period for repeat reports. Cox also suggests several other rule modifications crafted to allow the Staff to adjust reporting requirements to specific LEC networks and current reporting capabilities.

Cox also recommends, as others have in this docket, that the Commission adopt the FCC's major service outage reporting requirements.

Verizon

Verizon states that the Commission should focus narrowly on those rules that relate to public safety and not the ones that relate to customer care. Verizon supports the VTIA proposed rule changes which it also summarizes as follows: Rule 10 should clarify that the rules do not apply to business customers that have signed agreements for different service quality arrangements or to non-voice lines; Rule 50 should include the medical necessity complaint resolution provision set forth in Proposed Rule 90; Rule 60 should mirror the FCC's major service outage reporting requirements; Rule 80 B should provide flexibility for the Commission and LECs to consider providing directories in some medium other than print; Rule 90 A should be modified to indicate that any quarterly reporting would have to be directed by the Commission pursuant to Rule 100; the Rule 90 B.1-4 Customer Care Metrics should be eliminated (or in the alternative, modified); Rule 90 B.5 should set the standard for repeat reports at 20%; Rule 100 should be modified to indicate that the Commission can direct a LEC to address concerns regarding a failure to satisfy any Rule 90 standards; Rule 110 should be modified to recognize the possibility that mitigating factors may affect rule compliance, and to clarify that a LEC should not be penalized unless the Commission finds that it has violated one of its statutory responsibilities under the Code of Virginia; and Rule 130 should be added as a sunset provision.

Verizon also supplements its comments with statements from Jeffery Eisenach and Fletcher Mangum. Dr. Eisenach, besides reiterating earlier comments and testimony, attempts to justify the lowering of service standards so that additional personnel do not need to be hired to meet today's standards. Dr. Mangum postulates that consumers are not willing to pay for improved service quality.

AT&T Communication of Virginia ("AT&T")

In its comments, AT&T presents three recommendations. First, it urges the Commission to allow consumers rather than regulation to dictate service quality performance. Second, if the Commission is going to maintain service quality standards, it should establish in its out-of-service repair standards an exclusion for events which are beyond a LEC's control, such as when inclement weather produces unavoidable spikes in network troubles while impairing LECs' ability to deploy repair technicians. Third, the Commission should not adopt average call-answering, out-of-service trouble-clearance, or installation and repair interval requirements; such regulations are unnecessary to protect public health or safety or to promote economic well being.

Embarq

Embarq restates the applicable comments it filed in this case on August 21, 2008. Embarq is unaware of a general decline in the quality of service provided by local exchange carriers within the Commonwealth that warrants adopting a completely new set of more onerous service standards. In particular, Embarq asks the Commission to reconsider its comments regarding the Commission's changes to its answer-time measurement, installation service order, and installation and repair commitment standards at 20 VAC 5-428-90 B (2), (3) and (4). Embarq also expresses its support for the recommendations contained in the VTIA's comments.

Virginia Cable Telecommunications Association ("VCTA")

The VCTA does not challenge the Commission's apparent determination that more specificity is needed concerning compliance and penalties. The VCTA has specific recommendations concerning revisions to other aspects of the Proposed Rules. Generally, these recommendations mirror those made by Cox, which are summarized above.

Carol Summerlyn on Behalf of the Communications Workers of America ("CWA")

The CWA's comments are in addition to those previously submitted. Since its previous filing, CWA has received notice that Verizon has declared that it has a surplus of employees in certain of its service areas in Virginia and plans to reduce its work force. This alleged surplus is in primarily rural areas of Virginia. CWA members are reporting that no surplus exists and that Verizon has more than sufficient work for those currently on the payroll. Members say that many rural customers' requests are being delayed because the work load is greater than the current work force can complete. Ms. Summerlyn notes that the service quality measurement is a statewide measurement. The fear is that with the upcoming reduction in Verizon's rural work force, rural customers will wait longer and receive a lower quality service while those in more populated areas of the state will be serviced more promptly. Verizon will meet the overall statewide requirement with the service quality in less populated areas falling below standards. The Commission should explore the possibility of evaluating service quality on a regional basis. No customer should receive a lower quality of service merely because she or he lives in a less populated area of Virginia.

Urchie Ellis

Mr. Ellis comments that it is difficult to get a response and service from Verizon because they don't answer the telephone and instead route calls through recorded messages, which seldom deal with the problem. He also states that Verizon's bill is very complicated and difficult to add up or understand. He proffers that Verizon and the other regulated telephone companies are not treated fairly by the far less or even non-existent regulation of cell phone service providers. Mr. Ellis feels that the rules should be extended to the cell phone providers to protect the public interest.

STAFF DISCUSSION

Parts of Virginia have an on-going telecommunications service quality problem that impinges upon the provision of adequate service and that affects public health and safety as well as the economic interests of Virginians. Since the determination in Case No. PUC-2007-00040 that the Commission's existing standards are not enforceable, service quality has further deteriorated. This is in sharp contrast to the proclamation by the VTIA "that citizens throughout the *entire* Commonwealth enjoy excellent telecommunications service from the VTIA member companies."[1] [emphasis added]

Complaints such as those filed by some of the commenting parties herein about hours on the phone and days/weeks to repair and install basic utility telephone services are potentially dangerous, costly, and commonplace. In addition, complaints to the Commission are near historic levels, and, given the reduction in access lines, are likely at an all time high on a per-access line basis. (See attachment labeled "Total Wireline

[1] Second comments of the VTIA, page 1.

Complaints 1985-2008") Further, as of the end of 2008, out-of-service conditions rank number one among Commission complaints.

Virginia is not alone, however. Telecommunications service problems have been an issue in many other jurisdictions including, but not limited to, Indiana, New Jersey, Delaware, New York, Maryland, Ohio, West Virginia, Massachusetts, Pennsylvania, Florida, New Hampshire, Connecticut, Oregon, and Idaho.

The Staff's position on the need for service standards has not changed from its Response of September 15, 2008 in this case. That Response still stands and we shall attempt not to be overly repetitive here. Most importantly, Virginia's households and businesses have a legal right to reasonably adequate telephone service. Companies certificated to provide telephone service in the Commonwealth of Virginia have an attendant obligation to provide such service, and the Commission has a statutory duty to ensure that the telephone companies it certificates provide adequate service. Public service corporations enjoy significant benefits in Virginia. In exchange for those benefits, which have been enjoyed for over a century, comes the "burden" to provide customers with, at the very least, decent telephone service.

While telephone companies have the obligation to provide, and the Commission must ensure, adequate service, we agree with the industry that it is ultimately customers who should determine what constitutes proper telephone service. If certain rules are adopted that satisfy both providers and the Commission, but do not reasonably satisfy most consumers, then adequate service cannot possibly have been achieved. For example, if a customer is explicitly satisfied with a five-day out-of-service appointment, then adequate service has been achieved for that customer. If, however, a customer needs service restored within 24 hours, then service restoration beyond that point is not reasonably adequate. This has been the Staff's basic philosophy since the service standards rulemaking process started over a decade ago and remains relevant today regardless of the stage of competitive progress. In fact, competitive development, coupled with the need for a sound telecommunications network infrastructure, is what led the Staff, the industry, and, most importantly, consumers, to develop the current service standards. Those standards were extremely well vetted and, other than that they are unenforceable as to fines, remain appropriate, applicable, suitable, valid, and perfectly legitimate in today's environment. Moreover, nothing has occurred since the industry stipulated to those standards in 2005 that would warrant, in 2009, further lowering those agreed upon standards.

Of course, we are also open to new ideas and different approaches to accomplishing the task at hand, which is that any service standards adopted must be designed to resolve and, where possible, prevent problems so that adequate service can be maintained and, where lost, restored in a timely and responsible manner. In addition, any rules adopted should not increase risks to public health and safety or have a negative economic impact. The effect of any adopted standards should be neutral to those providers who play by the rules and penalize those who do not.

As correctly pointed out by Cox in its comments at page 3, "... it appears that only one carrier in Virginia has had serious service quality issues ..." and "... the Commission's experience with that one LEC appears to have been the catalyst for this current rule-making." Verizon notes in its comments at page 6 that "... the Commission did not adopt *any* service quality guidelines for the telecommunications industry until

1990, more than 70 years after Section 56-234 [service quality statutory provision] was adopted … and did not adopt and apply generally applicable service quality rules and metrics until 2005." That is also correct, however such rules and metrics were developed and promulgated in response to poor service issues which presumably did not exist under the monopoly environment of the prior 70 years. In fact, specific service standards arguably would not be necessary today if it were not for the performance of one company -- Verizon. Nonetheless, we understand that, pursuant to Va. Code § 56-235.5:1, any rules must, to the extent possible, apply to all providers.

Second Order

In its Second Order, the Commission specified several key issues for further review:

(1) Appropriateness of adopting specific standards for restoring out-of-service trouble reports, completing installation service orders, and field dispatch for installation and repair commitments, with a particular emphasis on public health and safety and minimizing economic impacts.

(2) Basis for adopting specific metrics for out-of-service trouble reports.

(3) Appropriateness of adopting the proposal in Revised Proposed Rules 90 B (1) and (3), pertaining to out-of-service trouble reports and installation service orders, that remove from noncompliance a time interval that exceeds the required standard when it has been caused by any customer, or when it has been explicitly requested or accepted by a residential customer.

(4) Economic harm to small businesses caused by untimely restoring or installing service.

(5) Appropriateness of adopting specific standards for repeat trouble reports, central office trouble reports, and outside plant trouble reports.

(6) Basis for exception reporting.

(7) Appropriateness of deleting Rule 40 regarding network relocation and rearrangement and deferring this issue to a working group.

Following is a discussion of these issues.

1) Appropriateness of adopting specific standards for restoring out-of-service trouble reports, completing installation service orders, and field dispatch for installation and repair commitments, with a particular emphasis on public health and safety and minimizing economic impacts; and,

4) Economic harm to small businesses caused by untimely restoring or installing of service.

Public health and safety should be of paramount concern, although we agree with the Commission that ensuring adequate service goes beyond this threshold. Put simply, safety means having your telephone service working when you need it. It also means having it installed in a timely manner and, once installed, working properly.

The Staff is frequently called upon to review service problems that affect public health and safety. For example, recently there was an incident involving an elderly couple in the Rawlings area in which the husband fell and the wife could not lift him into a safe position. It was February 9, 2009 at 3:30 A.M. when she attempted to call for help and realized the phone was dead. The couple had a cell phone, but, according to her, it did not work from their home. She waited until 6:30 AM to go to a neighbor's house to seek help and to report the outage. (According to the customer, Verizon instructed her to unplug the phone, wait thirty minutes, then plug it back in.)

We understand that telephone service is disrupted from time-to-time. In this case, however, there were five prior reported Commission complaints. Each complaint should have created the opportunity to ensure the network was in a proper state of repair. Instead, the customer was needlessly placed in a dangerous situation. The attached photos labeled "Rawlings 2-9-09" represent the state of the network surrounding the customer's location. After escalation by the Staff, service was restored following the repair of Verizon's outside plant. The attached photos labeled "Rawlings 2-27-09" represent the state of the network well after service was restored. By this date, the plastic had been replaced over the damaged pedestal. Finally, the attached photos labeled "Rawlings 3-26-09" represent the state of the network as of this writing. The plastic-wrapped pedestal has been replaced however, the defective pedestal in front of the customer's home remains in a state of disrepair. Excessive and unnecessary repeat reports are inevitable when proper maintenance measures are not undertaken.

According to a recent study of the current and proposed out-of-service metric, which was conducted by the Commission's Division of Economics and Finance, customers are approximately four times more likely to be left without the means to make a wireline 911 call under the VTIA/Verizon proposed standard (80% cleared within 48 hours and 95% cleared within 96 hours). To put that into a public health and safety perspective, under the Commission's current and proposed standard (80% cleared within 24 hours and 95% cleared with 48 hours) some 140 households may be unable to access wireline 911 services per year. Under the VTIA/Verizon proposal, according to our study, that number increases by nearly four fold to 546 households. Moreover, under the VTIA/Verizon proposed standard, the probability of a customer being without service for three days or more increases by nearly eight times.

Further, and in response to the comments of Verizon's Dr. Mangum, the Division of Economics and Finance suggests that Dr. Mangum's analysis of "death by lack of telephone maintenance," which he concludes has a probability of 6 in 100 million, compared to the risk of death in an airplane crash is sufficiently flawed as to confound it. The most serious error is that he uses a monthly probability of having an out-of-service complaint unresolved in 48 hours (.001869)[2] to calculate an annual probability of "death by lack of telephone maintenance." The use of a monthly binomial probability in an annual context requires the calculation of a cumulative binomial probability. Calculating the cumulative binomial probability for one year, based on a .001869 monthly probability, yields the annual probability of having an out-of-service complaint unresolved in 48 hours of .0219. Dr. Mangum also adduces a customer's risk of dying from a heart attack, but fails to note that if there were two individuals with that risk in a residence, the risk of "death by lack of telephone maintenance" would double.

These two oversights alone increase the proper calculation of the risk of "death by lack of telephone maintenance" by a factor of approximately 23.4 to 140 in 100 million (23.4 times 6 per hundred million).[3] If one should include additional individuals within a

[2] Staff's analysis, using 2008 data, leads to a value of .00257 for this probability.

[3] Staff's calculation of the cumulative binomial probability for one year, based on a .00257 monthly probability yields an annual probability of having an out-of-service complaint unresolved in 48 hours of .03. Applying this probability to the above analysis in addition to the corrections for the two errors described raises the risk of "death by lack of telephone maintenance" by a factor of approximately 32.10 or to approximately 193 per hundred million.

residence as well as other life-threatening risks such as seizures, strokes, accidents, fires, criminal activity, etc., the risk of "death by lack of telephone maintenance" within a given residence would increase by additional factors. Note also that we have not yet considered the risk of personal injury or property loss.

Moreover, National Transportation Safety Board statistics indicate that in 2007, aircraft with ten or more seats had 24 accidents against 10,720,000 departures (224 per hundred million). Accepting the proposed theory that consumers are willing to incur the costs necessary to reduce the risk of airplane accidents to 224 per hundred million, it is not clear why consumers would not pay to reduce the risk of "death by lack of telephone maintenance" that was shown above to be considerably underestimated at 140 per hundred million.

The analysis of probabilities leads to further questions. Given that a proper view from Dr. Mangum's analysis leads one to question whether and/or how much a consumer would pay to reduce Dr. Mangum's "death by lack of telephone maintenance," one might wonder if consumers truly are aware of the service that they might receive in the event of an out-of-service complaint. Based on the Staff's analysis using 2008 data for Verizon, in the event that a customer should go out of service, that customer has an approximate 26% chance of being out of service for at least 3 days.

Our analysis also shows that under the VTIA/Verizon proposed standards, if they are adhered to, a customer who is out-of-service has an approximate 20% chance of being out-of-service for at least 3 days, a 12.5% chance of being out-of-service for at least 4 days, and a 5% chance of being out-of-service for at least 5 days.

In response to the assertions of Dr. Eisenach as to the question of whether the market failure of asymmetric information exists in this instance, the answer is unambiguous. Individuals on one side of the transaction have less information than those on the other side of the transaction, and under such a condition these transactions are to some degree economically inefficient. Economic efficiency requires perfect information, just as it requires perfect competition. At issue here is the degree of the asymmetry. It could well be that the Commission may consider the asymmetry of information to be minor in degree; however, there is ample justification for the Commission to consider its effects.

In an attempt to further evaluate the effect of service quality on public health and safety, the Staff met with four groups of 911 officials over the past few months. In each case, there was a candid discussion regarding the effectiveness of wireline 911 versus wireless 911. Every group agreed that the improvements in wireless 911 capabilities have been of great public benefit. Although some 911 officials suggested that many of the wireless 911 calls relate to auto accidents, we can probably expect an increasing number of wireless calls to originate from the home as some households give up wireline service.[4] (Interestingly, a recent estimate by the National Center for Health Statistics ranks Virginia 40th in cell phone-only households at 10.8 %.) As time progresses, there is little doubt that the reliability of wireless 911 will improve and there is already a great deal of movement in that regard. Moreover, Verizon has announced that it considering introducing an inexpensive landline service, which, as we understand it, will be marketed to those seeking an affordable and reliable 911 connection. On that same front, Verizon

[4] These officials are of course, only aware of successful wireless calls to their centers. They are not aware of wireless 911 calls that are unsuccessful because of weak signal strength or other interference.

is marketing a $250.00 wireless "Network Extender, which "can enhance indoor wireless signals." In the meantime, however, we believe that wireline 911 services, particularly for those households without wireless services and those in which wireless is not reliable, will be the primary means for reporting emergencies from a household for the foreseeable future.

From an economic impact perspective, and in particular for business customers, less than prompt restoration and installation of service can have serious economic consequences. For many businesses, telecommunications is their lifeblood. Just recently a service quality complaint was referred to the Staff from the Commissioners' office. This complaint involved a prominent employer in the Northern Neck area who had complained of long standing service problems that were affecting the company's business. The matter was referred to his provider. The company reported to the Staff that the service quality issue had been resolved. We then conducted a "trust but verify" field visit to review the refurbished network. Given the high level of attention paid to the complaint, the result of field review was disappointing. As the attached photos labeled "Northern Neck" illustrate the state of the surrounding network, even following the company's notification to the Staff that the lines and equipment serving the complainant had been thoroughly refurbished, remained in a state of disrepair.

In another example, the developer of a major apartment complex in western Henrico County complained of a several-month holdup in the installation of fire alarm and elevator circuits thereby causing a delay in gaining occupancy permit from the county for new tenants. The following is an excerpt from the customer's e-mail to the provider:

> Trying to get Verizon to perform has become my role. We have been meeting with representatives of your Company for well over a year. There is NO excuse for Verizon not to provide service. Apparently Verizon has decided to provide FiOS instead of copper service. Verizon's decision has clearly caused a delay in providing service to us. As we have said many times before copper suits us just fine.

A delay in this particular instance, according to the customer, means that occupancy permits were delayed while the service provider was in a rush mode to order the cable needed. This particular development has been under construction for years and is in one of the most heavily populated areas in Henrico County. As of this writing, the customer reports that part of the needed telephone service has yet to be installed, although it is now our understanding that copper will eventually be used to serve the customer.

We were essentially helpless under the current regulations to assist with this complaint in a timely manner. The current, as well as proposed, standards require that 90% of installation orders, for up to five lines, be completed within five business days. This, of course, means that 10% of installation requests have no required installation interval. Today, as well as under the current proposal, if a customer calls to complain about an extended installation interval, the Staff is not empowered to require the requested installation, short of a Staff motion. By the time such a proceeding could be concluded, the need would have likely long evaporated, even though the date for a building occupancy permit may have been missed, or a residential customer may have been without needed telephone service for an extended period. For the future, we believe we can fix this problem, as noted in our proposed changes to Rule 70, at least for those customers who know to call the Commission.

Call center access and missed appointment measures also have an economic impact to Virginians. Customers who waste their time waiting to be answered by their providers may not only lose productive time at work, but also in some cases, use valuable wireless minutes while waiting needlessly. Following are a few summaries from actual Commission complaints regarding excessive call center hold times or time lost while out-of-service, which are used to illustrate the relevance to public safety as well as customer economic impact:

> <u>Example 1</u>
> Loud noise on the line - drop recently buried - construction damaged the drain pipe under the driveway - driveway flooded. Customer attempted to contact Repair - was on hold 15 minutes - had to hang up because she was on a cell phone and using up her minutes.
>
> <u>Example 2</u>
> She has been without service now for almost 2 weeks. The lines went out when the provider came out to bury the 2nd part of the line that has been lying across the road for almost 3 years. She has had 4 different appointments and no one shows up or calls, not even a supervisor who was supposed to return her calls. Now she is being told it will be Friday. She also has about 4 hours of cell usage.
>
> <u>Example 3</u>
> Customer has bad static on her line. This is the fourth complaint in 4 weeks. Customer also has a large cell phone bill because of all the calls to report her out of service and repair troubles. Customer usually pays a cell bill of $25, this month it is $65.
>
> <u>Example 4</u>
> Now my long distance dialing capabilities have been delayed due to incompetence. This should have never happened. If needed third party verification, it should have been taken care of on my initial call, not my 4th call. I am having to run up minutes on my cell phone now to make calls (I am over my limit) and I have a child which was just diagnosed yesterday as clinically depressed who I need to

be able to reach me and who I need to make calls into the city regarding (which is long distance).

Example 5

She has been without service since around midnight on 2-23 when there was a serious automobile accident when an electric pole was knocked down and another damaged. She has called her provider and they will not tell her when she will be getting service. It has now been almost 4 days and she has a concern that she does not have 911 and she is also running out of cell minutes.

Example 6

Customer placed a trouble report on Tuesday, August 21 due to a no dialtone condition. The commitment date was Monday, August 27. The company missed the commitment. Mr. and Mrs. [name withheld] are elderly and on medication. Their telephone service is essential. They have a cell phone however they are on a fixed income and it's costly for them to use.

Example 7

She has been without service now since 2-18, which is 15 days. She has had appointments and they were a no show, then yesterday a technician came out and advised he could not fix the line because it was down and he did not know where, and he would try to get someone out today if he could. She says she has not been the nicest person, because she needs her phone and now her provider just hangs up on her when she calls. She also has a cell phone with just a few minutes and she is having to pay 65 cents per minute for the calls all this time and wants to be credited for any overage.

Example 8

Customer has been out of service since the 26th of September. The phone was repaired on the 12th of October. [Name withheld] complained that she had to burn numerous minutes on her cell phone to try to get the wireline restored and wants at a minimum, credit for the period of time she was out of service on the wireline and additional credit for the inconvenience and costs of trying to get her service issue corrected.

Example 9
Customer says she's been without service since 10/14 and is very upset that she's been given 3 different dates for repair and no one has showed up for any of the dates. She has called several times and has been given the runaround on reasons why no one showed up as well as repair dates that are never met. Customer is upset that her cell phone usage has exceeded her allotted minutes.

Example 10
Summary: no phone service since 9/30/08. The company gave me 10/3/08 at the date of my appointment. No one called or came. I called numerous times and was given the run-a-around. So then they were to come out on the 4th...no call, no show, so I made several calls. Now I'm supposedly scheduled for Sunday but I've been stood up 2 days in a row. Not only that I had to take off work and I won't be paid for that and I have limited minutes on my cell phone and will probably incur a large cell phone bill with little to no compensation for all the trouble they have put me through.

Example 11
Customer has been out of service for 4 days. Customer states that the calls are being forwarded to his cell phone. Customer wants dial tone restored ASAP and wants credit for out-of-service condition for the business and cell minutes. Customer states that every time he contacts his provider he is on hold for half hour and reps just say well it's not fixed yet. Please review and dispatch tech to restore service, once restored remove call forward.

Example 12
Out of service July 7, 2008. Customer was having noise on the line. A technician came out; noise went away and so did the dial tone. Since then it was determined that the problem is not inside. Currently the CLEC is blaming the problem on ILEC and vice versa. Customer has had to use her cell phone, resulting in a $320.00 cell phone bill.

Example 13
While attempting to report/inquire on a service outage on 2-28-08, customer contends that she has been on hold from 45 minutes to an hour each time. [name withheld] states that she has depleted her cell minutes waiting for CLEC reps to

> answer the call. Customer has called CLEC every day for the last 13 days.
>
> <u>Example 14</u>
> Service was out for 6 days from 7-11 to 7-16. CLEC admitted cut-off in error. They were trying to cut someone else's service off that had a similar name. He had to use his cell phone for the 6 days he was without service and added up the calls for that time period and they were $52.40, the total bill was $111.00. His normal cell bill he says runs around $25.00. He has asked CLEC to pay for that time frame and they have advised they will not.

In a response from Verizon regarding a complaint from Mr. Beltrante, who filed comments in this case, the company acknowledged that average speed of answer time for December 2008 was 191 seconds, or over three times the current Commission rule to which Verizon stipulated. On the day Mr. Beltrante called, the average answer time was 395 seconds. (The Commission's current and proposed standard for call center access is an average speed of answer in 60 seconds.)

Missed appointments are probably the most aggravating waste of time for consumers -- and the issue most easy to fix, or at least appease. If a provider makes an appointment that requires a customer to be home and then has to cancel, that provider should call and reschedule. Requiring customers to be at the premises for a repair or installation often means lost vacation or missed work. There should not be a need, in a competitive or any other environment, to have a standard that considers 10% of commitments missed acceptable, much less the VTIA/Verizon proposal of 20% as an acceptable missed appointment rate. Given that many hundreds of appointments are made and, based on the VTIA/Verizon requested change from a 90% to an 80% threshold of commitments met, many are missed each day without customer notification, this poses a significant threat for the economic impact to business and residential customers alike.

2) Basis for adopting specific metrics for out-of-service trouble reports.

The selection for the current and proposed 80% within 24 hours out-of-service restoration threshold was not without basis or justification. It was years in the making as were the rest of the current rules. When we first started the rulemaking process in 2001, competition was already established in many areas. The Staff had originally proposed a higher threshold based on a customer survey. It was primarily the comments of Verizon that eventually led to this particular standard. As a result, the Staff agreed to lower the threshold to the current 80% level – a level to which the company subsequently stipulated. In support of its recommendation, Verizon provided the following:

> This new measure [90% within 24 hours] sets excessively costly and unrealistic standards. Verizon puts high priority on restoring service to customers as quickly as possible. A large percentage of customers are restored in less than 24 hours. However, a 90% level is significantly higher than necessary to assure acceptable service to Virginians. Due to the dynamic flow of trouble reports, carriers need flexibility to manage at an adequate, but efficient force level. To consistently meet the 90% level Verizon would need to hire several hundred additional technicians at an estimated annual cost of $18 million. A standard of 80% cleared within 24 hours would be more reasonable, and still challenging.[5]

Now, Verizon recommends that the time for restoration be doubled to 48 hours from what it had previously proposed and stipulated. One would have to return to March 2008 as the last month in which Verizon would have met the standard it now proposes.[6] Further, a review of Commission out-of-service complaints for the 4th Quarter 2008 reveals an average repair commitment interval of eight days. All but two of the 154

[5] Excerpt from a letter dated September 14, 2001 from Verizon to the Staff.

[6] A chart that graphically depicts this is available for in camera viewing. The chart was compiled from weekly reports that Verizon labeled "Confidential."

extended interval out-of-service complaints received by the Staff for the 4^{th} Quarter 2008 were lodged against Verizon. (The two exceptions were from customers of CLECs who are dependent upon Verizon for service restoration.)

If competition has increased since the Commission's consumer survey and Verizon's proposal to clear 80% of out-of-service troubles within 24 hours, then one might reasonably expect that service would have improved since then. But, even if one believes our survey is "stale," which it is not, you would look no further than the recently published March 2009 FCC report labeled "Quality of Service of Incumbent Local Exchange Carriers" to see that Verizon, on a national basis, ranks poorly in several service categories related to those that are currently under review in the Revised Proposed Rules. The FCC's report also includes a customer perception survey. (See attached excerpts from FCC report)

Putting aside for the moment the survey, the previous agreements and stipulations, and what is occurring in other jurisdictions, there is real evidence of what occurs without enforceable standards. Even though it was found to be in violation of the Commission's rules, Verizon's performance hit new lows almost immediately following the Commission's February 29, 2008 ruling in Case No. PUC-2007-00040.[7] Accordingly, it is not necessary to speculate about what occurs when there is no enforceable out-of-service restoration standard.

3) Appropriateness of adopting the proposal in Revised Proposed Rules 90 B (1) and (3), pertaining to out-of-service trouble reports and installation service orders, that remove from noncompliance a time interval that exceeds the required standard

[7] See same chart referred to in prior footnote.

when it has been caused by any customer, or when it has been explicitly requested or accepted by a residential customer.

It makes perfectly good sense not to penalize a provider when a customer explicitly and willfully accepts a repair or installation appointment that falls outside the boundary set by the standards. This does not mean that a customer is "forced" into accepting an unacceptable date without the readily available option of speaking to a live operator, or some other means, of receiving a date within the bounds set by the standards.

5) Appropriateness of adopting specific standards for repeat trouble reports, central office trouble reports, and outside plant trouble reports.

It is surprising to find that any company would want to increase the repeat report rate from 16% to 20%. Even 16% is high. Like missed appointments, customers have cause to be annoyed when a provider cannot fix the problem correctly the first time, but it would also seem to be against the company's best interests, hence our confusion. We are often told that a truck roll is very expensive from a maintenance perspective, so how could it not be antithetical to a provider's business plan to roll trucks more often? If there was not a public safety issue or an economic impact from high repeat report levels, then we would not be as concerned as regulators. It would be more of a shareholder problem, at least for publicly held companies.

Statewide standards such as those pertaining to central office and outside plant trouble reports may provide an overall view of service, but they do not provide sufficient detail to isolate many service issues. It is important, therefore, to leave the option of seeking data on a central office basis. The more important question is what other specific performance standards should be put into place that, without impinging on competition, will require a service provider to comply with basic and reasonable standards of service such as restoring out-of-service conditions in a timely manner, installing service on-time, answering the phone, and simply showing up when promised.

6) Basis for exception reporting.

We agree that an exception reporting requirement (which would require a provider to collect data even if it was never required to report) would be an unnecessary burden to those companies that do not have, and may never have, service problems. For those that do, reporting should be required only at the direction of a docketed service quality investigation or inquiry. For example, the Commission may docket a service investigation directed at a provider who has come under scrutiny by customer petition, excessive complaints, Staff motion, legislative initiative, etc. As part of that investigation, the Commission may require the LEC to provide reports. If such reporting, for example, indicates service performance below the specific standards set forth by Rule 90, then the Commission, pursuant to Rule 110, may pursue enforcement and sanctions.

From the Staff's perspective, the primary difference between what we have proposed versus the current rules is that there is no wasted effort on the part of the Staff and provider to engage in lengthy and unproductive correction action efforts. (The informal, and still unresolved, service deficiencies that ultimately led to the Staff's Motion in Case No. PUC-2007-00040 began in mid-2006.) From the provider's perspective, only those providing inadequate service would have to be burdened with collecting and reporting the data. From the Commission's perspective, service investigations should result in more timely resolutions for both providers and Virginia's consumers.

In addition to this type of reporting, the Staff believes it can enhance public education by developing customer educational material that may serve to inform consumers adequately of their remedies. In addition, we recommend, as was suggested by one commenter, that the Commission, as part of its final order in this docket, require LECs to provide customers with the Commission's contact information should they have a complaint that cannot be resolved with their provider. This information should be displayed prominently at least twice annually on customer bills, whether paper or electronic. The Staff should approve this customer bill information in advance.

7) Appropriateness of deleting Rule 40 regarding network relocation and rearrangement and deferring to a working group.

Rule 40 should remain, and further, be enhanced. The relocation and rearrangement of network facilities is most often associated with residential and business development, and therefore is of great economic consequence. Commission complaints surrounding construction issues, in almost every case, involve Verizon. Like other facilities-based providers, only Verizon can move its facilities for developers and homeowners. There are no rules surrounding how and when this work will be performed even though company engineers know the steps that must be followed to schedule and perform the work in a timely manner.

With regard to cost, Verizon provides an estimate that must be paid in full in advance and customers must trust that any overages will be refunded. If the estimate is too high, the customer or developer may delay or cancel the project altogether resulting in a negative economic impact. Verizon will provide very limited cost details regarding construction charges to customers, which has resulted in a growing number of Staff audits. The thrust of this issue was recently captured in a recent e-mail from the director of land development for one of the largest developers in the United States concerning an audit request for rearrangement and relocation work:

> I agree with you – that is totally unacceptable practice. In what other industry can a company charge you whatever they want; up front, no back-up, no details, no schedule and then claim they will need to charge you further to verify what you have been invoiced[[8]]. Wouldn't good accounting practice assume this has already been done and they would know how much this project cost them? I know we (as do most sizable or publicly traded companies) keep very thorough budgets, files and cost records on all projects (new or ongoing for many years) and can produce them in very short order – if not within hours certainly well inside a week.
>
> Please keep pushing and with the help and support of the SCC hopefully this will move forward quickly and force Verizon's accountability. This debacle has been going on for years now and Verizon has had our money for over three years.

In this case, according to the developer, it sent the required up-front payment to Verizon in the amount of $657,506 on April 19, 2005. The refund for the over-payment of $245,314.61 (37%) was received by the developer on Friday, March 13, 2009. No interest is applied to a customer refund.

In yet another, recent instance involving the relocation of three poles for a turn-in lane to support the construction of over 300 apartment units, the developer writes:

> I am writing to inform you that I am in receipt of your cost estimate provided by [name withheld] for the relocation of poles and underground placement of Verizon services at my property. We are anxious for you to begin your work, but we can not accept the estimate prepared in the amount of $132,498.00.

[8] When asked to verify this practice, Verizon, in a letter to the Staff dated February 18, 2009, indicated that it "has no current plans to charge Commission complainants for the cost of retrieving data or responding to requests associated with Staff audits…."

> In over 20 years of doing development work. I have never encountered a fee so outrageous as this. We are developing the site for a luxury apartment complex that will provide 336 units and provide 3 outparcels for commercial business. All of this work will immediately provide customers to you in an area where you have had none.
>
> In closing, please provide me a detailed breakdown of your estimate so that I can attempt to justify these costs. I need to ensure that you have exhausted all efforts to reduce the costs for the requested work.

The Staff has just begun its investigation in this case, which will include a request for a detailed accounting of the costs, since Verizon will not provide such to the customer.

We do not know how many construction projects are delayed or cancelled based on Verizon's estimates. When recently asked by the Staff to put into writing its position with regard to construction charge estimates, Verizon responded as follows:

> First, on relocation jobs, Verizon provides customers with summary detail including major costs (labor, material, contractors), as well as stick drawings of facilities and footages. This informs the customer of the location, and amount of facilities to be placed. Verizon does not, however, provide detailed cost information regarding the materials or labor for the activities performed.[9]

The pertinent questions regarding Rule 40 are as follows:

1) Should regulators require LECs to provide homeowners, developers, and businesses with good faith estimates on the cost of relocating or rearranging network facilities?
2) Should regulators require LECs to provide, when developers request additional information, an estimate that contains more than the total costs only broken down by total labor, engineering, and materials?

3) Should there be timetables established for the timely completion of routine work?

When the market is not, and, in fact, cannot work as it relates to construction activities, the answer to these questions must be yes. Therefore, the Commission's Rules should incorporate what has become both a serious and time-consuming issue. Should the Commission decide not to include provisions for this issue, then a docket should be opened to investigate the construction charge practices of Verizon. We do not believe that an industry working group would timely bear fruit in this regard as we are reminded that the result of a years-long industry working group on service quality rules led to where we are today.

RECOMMENDED CHANGES TO REVISED PROPOSED RULES

The following proposed changes to the Revised Proposed Rules are highlighted in italicized bold. This version also accepts the latest proposed revisions made by the Commission as part of its December 15, 2008 Second Order. Lastly, we have worked with the industry in an attempt to narrow our differences. Any discussion that follows a proposed change is contained within brackets and in bold print.

We will attempt to deal only with those comments that we feel are germane to the task at hand, which is identifying appropriate service standards. We will lay out those changes to which we agree and those to which we do not.

20VAC5-428-10. Applicability; definitions.

A. This chapter is promulgated pursuant to §§ 56-35, 56-36, 56-234, 56-234.4, 56-246, 56-247, 56-249, and 56-479 of the Code of Virginia and shall apply to local

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[9] Excerpt from a letter dated February 18, 2009 from Verizon to the Staff.

exchange carriers (LECs) providing local exchange telecommunications services within the Commonwealth of Virginia, ***except when a signed contract with a business customer provides otherwise***. **[Some business customers agree to service level agreements as part of an overall package of services provided. The Staff agrees with this proposed change put forth by the VTIA/Verizon.]** This chapter prescribes the minimum acceptable level of service quality under normal operating conditions. The commission may, after investigation and at its discretion, suspend application of this chapter during force majeure events, which include natural disaster, severe storm, flood, work stoppage, civil unrest, major transportation disruptions, or any other catastrophic events beyond the control of a LEC. **[We disagree with AT&T that heavy rain should be equated to force majeure.]**

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Automated answering system" means a system where customer calls are received and directed to a live agent or an automated transaction system.

"Automated transaction system" means a system where customer transactions can be completed without the assistance of a live agent, and include the option to reach a live agent before the completion of an automated transaction.

"Central office" means a LEC-operated switching system, including remote switches and associated transmission equipment.

"Central office serving area" means the geographic area in which local service is provided by a LEC's central office and associated outside plant.

"Commission" means the Virginia State Corporation Commission.

"Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency that is an end user [or the authorized agent of an end user] of local exchange telecommunications services under the jurisdiction of the commission.

"Customer call center" means any functional entity that accepts customer calls pertaining to service orders, billing inquiries, repair, and any other related requests.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Inadequate service" means a finding by the Commission that a LEC has failed to meet any provision of this chapter. **[This language eliminates the potential argument that the Rules are aspirational.]**

"Local exchange carrier (LEC)" means a certificated provider of local exchange telecommunications services, excluding LECs subject to Chapter 16 (§ 56-485 et seq.) of Title 56 of the Code of Virginia.

"Local exchange telecommunications services" means local exchange telephone service as defined by § 56-1 of the Code of Virginia.

"Major service outage" means ~~***any network condition that causes 1,000 or more customers to be out of service for 30 or more minutes; causes an unplanned outage of, or completely isolates, a central office for 30 or more minutes; or disrupts 911 emergency call processing for any period.***~~ ***a significant degradation in the ability of the end user to establish and maintain a channel of communications as a result of a failure or degradation in the performance of a LEC's network. This definition is***

based upon the definition of "outage" by the Federal Communications Commission ("FCC") under 47 CFR § 4.5 and shall incorporate by reference any subsequent amendments to this definition. **[The Staff agrees with the suggestion of the VTIA/Verizon, Cox, and the VCTA that the federal guidelines are sufficient for this purpose.]**

"Network" means a system of central offices and associated outside plant.

"Network access line (NAL)" means a ***DSO level of service with*** customer dial tone~~,~~ ~~***or its equivalent,***~~ that provides access to the public telecommunications network. **[The Staff agrees with this suggested change by the VTIA/Verizon.]**

"Out of service" means a network service condition causing an inability to complete an incoming or outgoing call or any other condition that causes a connected call to be incomprehensible.

"Outside plant" means the network facilities not included in the definition of central office including, but not limited to, copper cable, fiber optic cable, coaxial cable, terminals, pedestals, load coils, or any other equipment normally associated with interoffice, feeder, and distribution facilities up to and including the rate demarcation point.

"Rate demarcation point" means the point at which a LEC's network ends and a customer's wiring or facilities begin.

"Repeat report" means a customer reported trouble that is received by a LEC within 30 days of another trouble report on the same NAL.

"Speed of answer interval (SAI)" means the period of time following the completion of direct dialing, or upon completion of a customer's final selection or response within an automated answering system, and lasting until the call is answered by a live agent or is abandoned by the customer or the LEC. In the case of automated transactions where a customer opts to speak to a live agent, the SAI is the period of time following the customer opting to speak to a live agent until the call is answered by a live agent or is abandoned by the customer or the LEC. A call is considered to have been answered when a live agent is ready to render assistance.

"Staff" means the commission's Division of Communications and associated personnel.

"Trouble" means an impairment of a LEC's network.

"Trouble report" means an initial oral or written notice, including voice mail and email, to any LEC employee or agent of a condition that affects or may affect network service.

20VAC5-428-20. Private property restoration.

A LEC, whenever it disturbs private property during the course of construction or maintenance operations, shall, except when otherwise specified or governed by easement or agreement, make every reasonable effort to restore the private property to a condition that is at least as good as that which existed prior to the disturbance once all work is completed.

20VAC5-428-30. Availability and retention of records.

A. A LEC shall provide to the commission or staff, upon request, all records, reports, and other information required to determine compliance with this chapter.

B. A LEC shall retain records relevant to this chapter for a minimum of two years.

C. A LEC shall retain customer billing records for a minimum of three years to permit the commission or staff to investigate and resolve billing complaints.

20VAC5-428-40. ~~**Routine**~~ ***Network relocation and rearrangement.***

A. Upon the receipt of a bona fide request for the routine relocation or rearrangement of its network facilities, a LEC shall provide the requesting party a detailed, itemized written good faith cost estimate, or a written work plan if no charges are applicable, within 45 days, unless otherwise agreed to by the requestor. Upon the requestor's acceptance of the cost estimate or work plan, a LEC shall complete the relocation or rearrangement work within 60 days, unless otherwise agreed to by the requestor.

B. A LEC shall, upon request, provide a detailed, itemized written good faith cost estimate for non-routine relocation or rearrangement work.

[This change accommodates the request of developers for detailed cost estimates regardless of the size of the construction request. Further, the Staff disagrees that this section should be deleted and deferred to an industry working group.]

20VAC5-428-50. ***Emergency*** **trouble report** ***response*** ~~**availability**~~**. [This change provides for a more clear description.]**

A. A LEC shall accept, acknowledge, and record trouble reports of an emergency nature at all times through automated or live means.

B. A LEC shall take immediate action to clear trouble reports of an emergency nature.

[The VTIA/Verizon suggested change regarding best efforts to restore service for medical necessity or personal safety is not necessary. A and B above already cover such circumstances and are, appropriately, more stringent.]

20VAC5-428-60. Service outage reporting.

A LEC shall inform the staff of a major service outage in Virginia by providing all reports required by the Code of Federal Regulations, Title 47-Telecommunications, Chapter 1-Federal Communications Commission, Part 4-Disruptions to Communications. Additionally, a LEC shall comply with all provisions of Part 4 related to report content, processing, and delivery. A LEC shall provide to the Commission or staff, upon request, additional information regarding service outages not included in FCC reports as necessary to perform their oversight responsibility. **[Further discussions with the industry have led the Staff to believe that the FCC's reporting requirements are sufficient.]**

~~*A. A LEC shall advise the staff of a major service outage on the same day as the outage occurs. If the outage occurs outside of the commission's normal business hours, a LEC shall advise the staff [via voice mail and email at the beginning of the next business day].*~~

~~*B. A LEC shall submit to the staff a major service outage report by the end of the next business day following the [end of the] outage and shall include the following information:*~~

~~*1. The central office, remote switch, or other network facility involved;*~~

~~*2. The date and estimated time of commencement of the outage;*~~

~~*3. The geographic area affected;*~~

~~*4. The estimated number of customers affected;*~~

~~*5. The types of services affected;*~~

~~*6. The duration of the outage (e.g., time elapsed from the commencement of the outage until estimated restoration of full service); and*~~

~~*7. The apparent or known cause or causes of the outage, including the name and type of equipment involved and the specific part of the network affected, and methods used to restore service.*~~

20VAC5-428-70. Commission complaints.

A. When the staff informs a LEC of an out-of-service commission complaint, that LEC shall restore the affected service within 24 hours of the report, unless an extension is granted by the staff.

B. When the staff informs a LEC of a non out-of-service commission complaint, the LEC shall resolve the complaint within 10 business days ***of the report***, unless an extension is granted by the staff.

C. When the staff informs a LEC of a missed service installation commission complaint, that LEC shall provision service within five business days of the report, unless an extension is granted by the staff. **[This change resolves the issue regarding delayed installation appointments, which have both public safety and economic impacts. Today, a provider does not have to install service promptly upon a Commission complaint because the missed installation may fall within the 10% margin of error allowed for by the standard.]**

20VAC5-428-80. Printed directories.

A. A LEC shall publish printed directories or cause its customers' listing information to be published in printed directories at yearly intervals. **[We are inclined to agree with the proposal by the VTIA/Verizon with regard to the word "printed." However,**

any discussion regarding a major policy change of eliminating or reducing the distribution of printed directories is best left for another proceeding.]

B. A LEC responsible for publishing a directory shall make every reasonable effort to correct directory errors and to resolve directory disputes in a timely and efficient manner. A LEC responsible for directory publication may be required by the commission to postpone publication depending upon the nature and severity of a complaint. A LEC responsible for publishing a directory includes, but is not limited to, a LEC that publishes directories, causes directories to be published, or provides customer information for inclusion in directories.

20VAC5-428-90. Network and customer care service quality and reporting.

A. ***A LEC subject to a docketed commission service quality investigation or inquiry*** ~~***A LEC subject to a with 10,000 or more NALs***~~ shall file ~~***quarterly***~~ performance reports ***for the period directed by the commission*** showing monthly results ~~***on a statewide basis***~~ for the performance standards contained in subsection B ***and, when directed, C*** of this section.~~***[for any quarter in which it failed to meet a standard for one or more months].***~~ ~~***The quarterly reports shall be filed no later than the 15th day of the month following the close of the preceding quarter.***~~ The reports and the data they contain shall not be deemed confidential and shall be subject to commission audit. ~~***A LEC may request the commission to exempt it from the filing of quarterly reports by demonstrating that its services, in whole or in part, are provided through the resale or lease of another LEC's services or facilities over which it has no direct control.***~~

[This change will ensure that only providers willing to risk a docketed service inquiry are subject to the burden of report preparation and filing. We reject the use

of "justified complaints" as a trigger for reporting since recent past history suggests that we would waste a great deal of time litigating the meaning of "justified" should the trigger threshold be met. For the public, the Staff plans to develop and publish service quality information using complaint and other data.]

B. A LEC shall comply with the following performance standards:

1. A LEC shall restore no less than 80% of out-of-service trouble reports within 24 hours, and no less than 95% within 48 hours, per calendar month, on a statewide basis, excluding Sundays and LEC-recognized holidays ***for business customers, and excluding Saturdays, Sundays, and LEC-recognized holidays that do not result in three consecutive excluded days for residential customers***. A LEC shall calculate its results by dividing the number of out-of-service customer trouble reports restored within 24 hours and 48 hours respectively in the given month by the number of out-of-service customer trouble reports received in the given month. The quotient is then multiplied by 100 to produce the result as a percentage. A LEC may exclude (i) customer caused delays, and (ii) extended intervals that are explicitly accepted or requested by residential customers; a LEC shall submit to the commission's Division of Communications a satisfactory description of the criteria it will apply to determine an explicit acceptance or request by a residential customer and of the method it will employ to record such explicit acceptance or request. **[This is consistent with the change proposed by the VTIA/Verizon.]**

2. A LEC shall answer calls to its customer call centers with an average SAI of no greater than 60 seconds per calendar month. A LEC shall calculate its results by dividing the cumulative SAI in seconds in the given month by the number of calls answered by a

live agent in the given month. A LEC shall exclude from its calculation customer-initiated web transactions and customer-initiated automated transactions.

3. A LEC shall complete no less than 90% of installation service orders within five business days of a customer's request, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of installation service orders completed within five days in the given month by the number of service orders received in the given month. The quotient is then multiplied by 100 to produce the result as a percentage. A LEC may exclude extended intervals that are explicitly accepted or requested by residential customers, customer-caused installation delays, and service orders for the installation of more than five NALs at one customer location ; a LEC shall submit to the commission's Division of Communications a satisfactory description of the criteria it will apply to determine an explicit acceptance or request by a residential customer and of the method it will employ to record such explicit acceptance or request. A LEC may exclude installation service orders that involve porting telephone numbers, the delivery of which has been delayed by another LEC.

4. A LEC shall meet no less than 90% of installation and repair commitments requiring a field dispatch, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of installation and repair commitments met in the given month by the number of commitments made in the given month. The quotient is then multiplied by 100 to produce the result as a percentage.

5. A LEC shall not exceed a 16% ***repeat*** report rate, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of repeat reports in the given month by the number of trouble reports cleared in the given month. The

quotient is then multiplied by 100 to produce the result as a percentage. **[We agree with the Consumer Counsel's proposed correction to add the word "repeat."]**

6. A LEC shall not exceed a 0.35% central office trouble report rate, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of central office related trouble reports in the given month by the number of NALs at the end of the given month. The quotient is then multiplied by 100 to produce the result as a percentage.

7. A LEC shall not exceed a 3.0% outside plant trouble report rate, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of outside plant related trouble reports in the given month by the number of NALs at the end of the given month. The quotient is then multiplied by 100 to produce the result as a percentage.]

C. ~~***Notwithstanding that quarterly performance reports are compiled on a statewide basis,***~~ *T*he commission may, in its discretion, direct that analogous reports be filed to assure that LECs comply with the performance standards set out in subdivisions B 1, B 3, B 4, B 5, B 6, and B 7 of this section, for any individual central office serving area of any LEC. ~~***[The commission also may direct that additional reports be filed to provide information, to be prescribed by the commission, not included in the quarterly performance reports.]***~~ A LEC's failure to comply with the performance standards set out in subdivisions B1, B3, B4, B5, B6, and B7, for any individual central office serving area may result in enforcement proceedings as provided in 20VAC5-428-110. **[This change reflects the proposed change to the reporting requirements of 90 A above. In addition, reporting on a less-than-statewide basis, in this case a central**

office basis, is in keeping with the concern expressed by the CWA regarding regional differences in service quality.]

~~D. If a customer indicates that a medical necessity requires prompt restoration of service, a LEC shall restore service within 24 hours.]~~ **[This issue is already incorporated in 20VAC5-428-50 (Emergency trouble report response.)]**

[The Staff proposes no other changes to 20VAC5-428-90.]

20VAC5-428-100. Generally inadequate service.

A LEC shall, at the direction of the commission following notice and an opportunity for hearing, address any concern for inadequate service quality not specifically addressed in this chapter.

20VAC5-428-110. Enforcement and sanctions.

The commission may, upon motion, and after opportunity for written response from the LEC in accordance with 5VAC5-20-***90***, issue such order or orders as it deems necessary to notify a LEC of the LEC's obligation and need to satisfy the provisions of this chapter. If a LEC fails to comply with the directives of such order, the commission may, following notice and an opportunity for hearing, levy one or more of the penalties and sanctions authorized by §§ 12.1-13, 12.1-33, and 56-483 of the Code of Virginia for violations of such order.

[The change from "100" to "90" would appear to be consistent with the current Rules of Practice and Procedure.]

[We disagree with the VTIA/Verizon proposed change, which, we believe, means that the rules of this chapter would need to be re-litigated to determine the "reasonably adequate" threshold.]

20VAC5-428-120. Commission authority.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.

20VAC5-428-130. Sunset Provision.

This chapter may sunset on December 31, 2012 following a Commission proceeding that determines that the rules set forth are no longer necessary to ensure adequate service. **[We agree with a sunset proceeding provision as shown. We do not agree with the VTIA/Verizon that the rules should be eliminated without first formally determining that they are no longer necessary.]**

CONCLUSION

The Commission, in its Second Order, said it best. "We find as a matter of law – and no commenter disputed – that this Commission has the legal authority to promulgate minimum service quality standards."[10] In doing so, the Commission has the wherewithal not only to decide standards but, when needed, take appropriate enforcement action. Certain commenting parties have incorrectly – too narrowly – interpreted the Second Order to mean that any rules promulgated by the Commission may only apply to public health and safety or economic impacts. "Although the provision of 'reasonably adequate service and facilities' is not explicitly limited to public health and safety or economic

[10] Second Order, page 2.

impacts under the statute, *and we do not limit our inquiry to those issues here…"*[11] [emphasis added]

Having already decided that it can adopt service standards, the Commission must now decide whether it should and, if so, what they should be. It is surprising at this stage of competitive development, when one would think service should have improved, that we find ourselves grappling with issues such as network facilities being maintained with the use of plastic bags and inside wire strung along highways; restoring out-of-service conditions in weeks versus days; providers making and not keeping appointments; and providers' not answering phones in a reasonable timeframe. Nonetheless, that is where we are and the Commission must decide if that is acceptable – adequate – service for Virginians. Should the Commission *have* to establish explicit rules that effectively require a company to prevent and, when those measures fail, resolve service inadequacies that potentially affect all customers? Of course not. However, given what is occurring for some customers, it is clear that company-wide, enforceable standards are the only way to prevent service from becoming so poor that even merely adequate service is no longer available. Service rules did not beget poor service, poor service begot service rules.

The Commission's Revised Proposed Rules are supported by statute, customer comments, and customer surveys. They are generally consistent with other jurisdictions and with other, non-essential, services (i.e., cable TV), and, most importantly, supported by our own actual experience. The health of the network standards provide a broad-based, high level assurance of network integrity. For example, for repeat reports to fall within the Commission's threshold rate of 16%, providers will have to exercise at least a

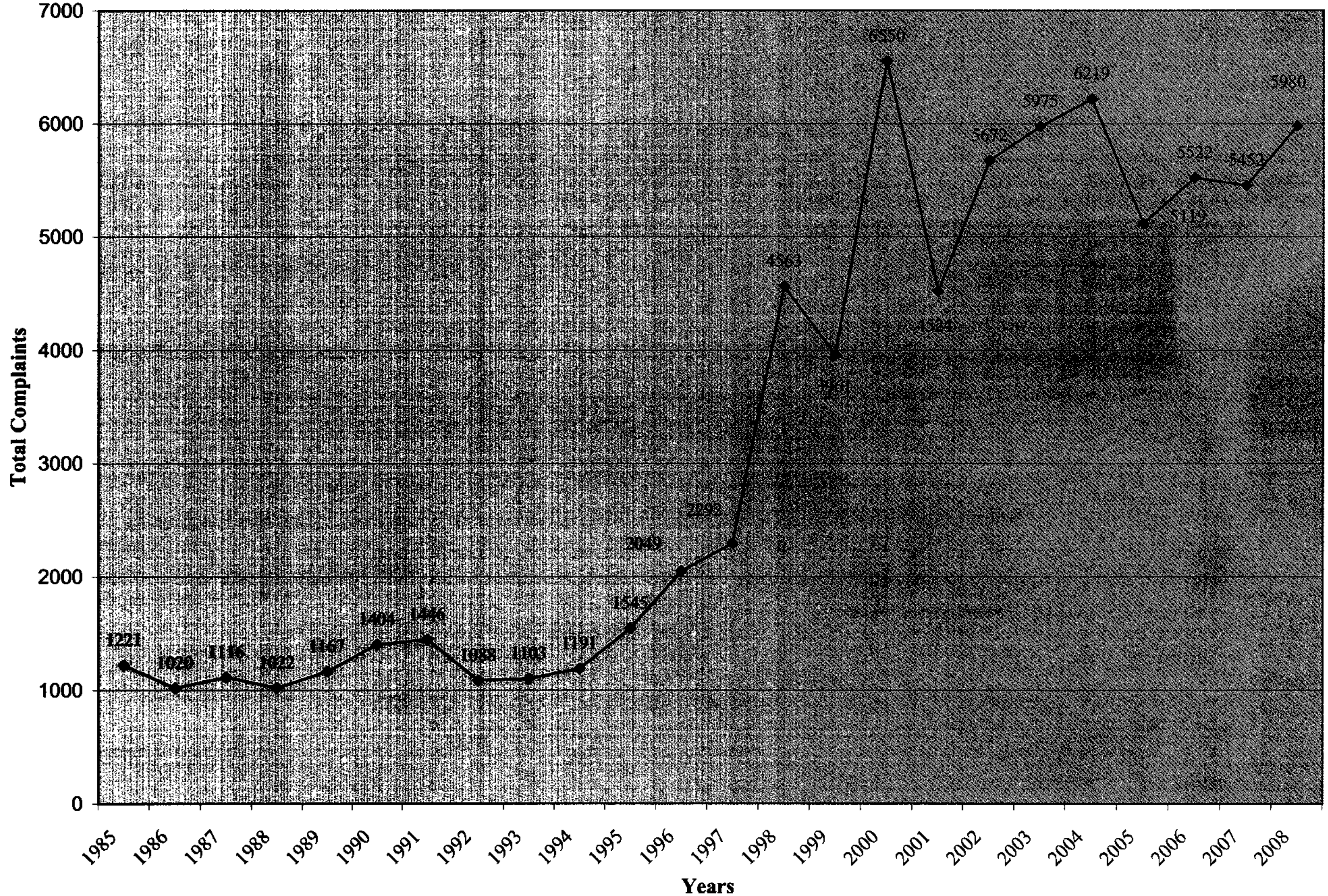
[11] Second Order, page 4.

minimal amount of care to prevent service troubles from recurring. Without this standard, as well as the proposed central office and outside plant standards, networks may become unattended or under-attended, which can lead to conditions affecting public health and safety as well as economic well-being. We know that telecommunications networks can take a long time to deteriorate and, once gone, are difficult and expensive to rehabilitate. The more specific standards such as out-of service restoration, call center access, installation intervals, and missed appointments strike at the heart of meeting customer needs.

The Commission's Revised Proposed Rules are generally in keeping with other jurisdictions as well as those put in place by non-public utility regulators such as cable TV franchising authorities. The public comments support the Revised Proposed Rules as do the comments of the Consumer Counsel. Even though the industry argues that customer satisfaction and service standards should be left to consumers and the competitive marketplace, there is not one comment from the market (customers) that even hints that rules are not necessary. The proposed rules, with only minor modifications, will assist the Staff in monitoring the overall health of the telephone network; responding to individual customer complaints; and resolving service issues involving isolated areas as well as service issues affecting the entire state. They establish a floor below which service, by definition, is inadequate and above which there should be competitive differentiators, where available, that control or regulate.

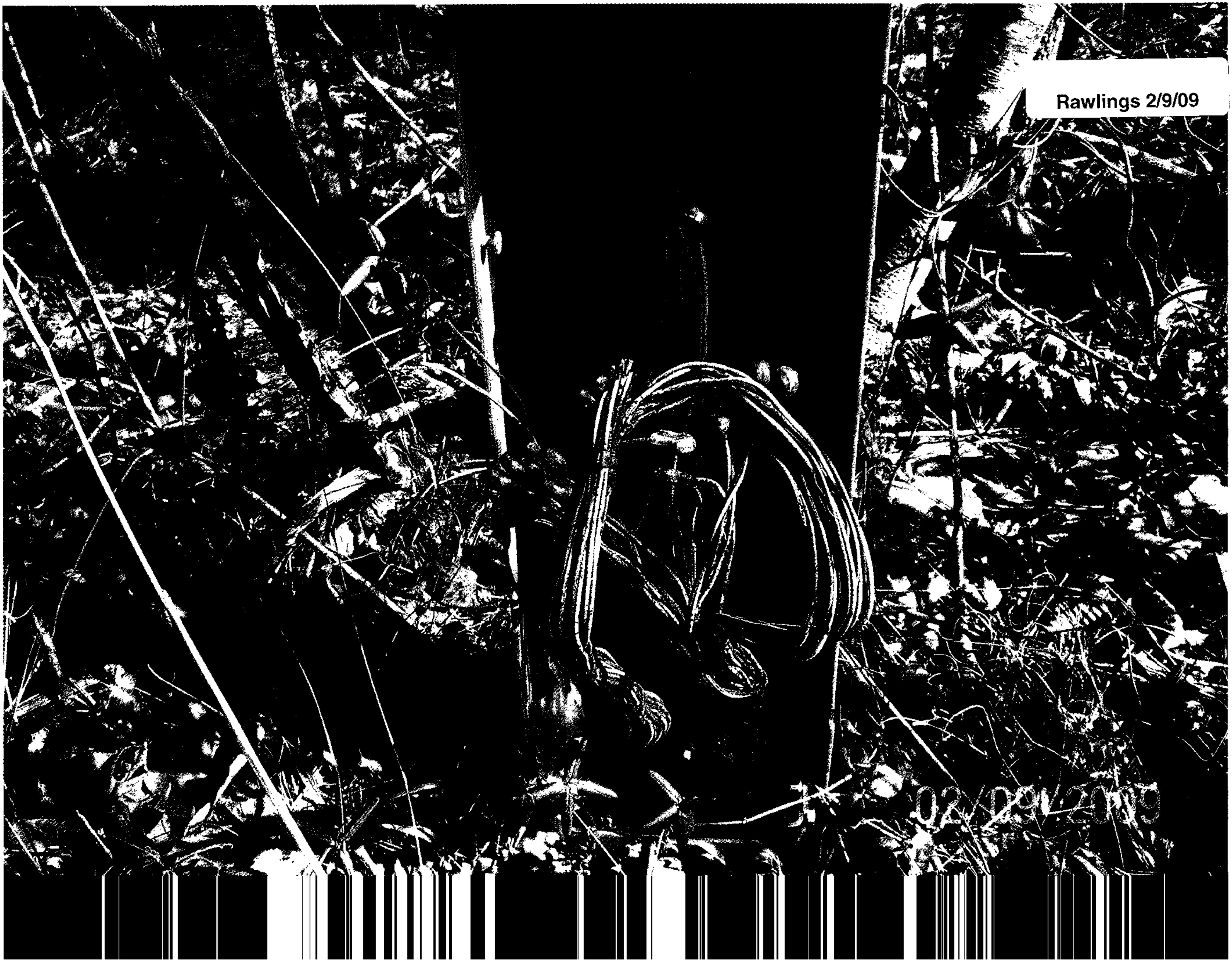
In short, the Revised Proposed Rules, with a few recommended changes, strike the proper balance to ensure adequate service, protect public health and safety, and deter adverse economic impacts.

Total Wireline Complaints
1985-2008




Rawlings 2/9/09


Rawlings 2/9/09
02/09/2009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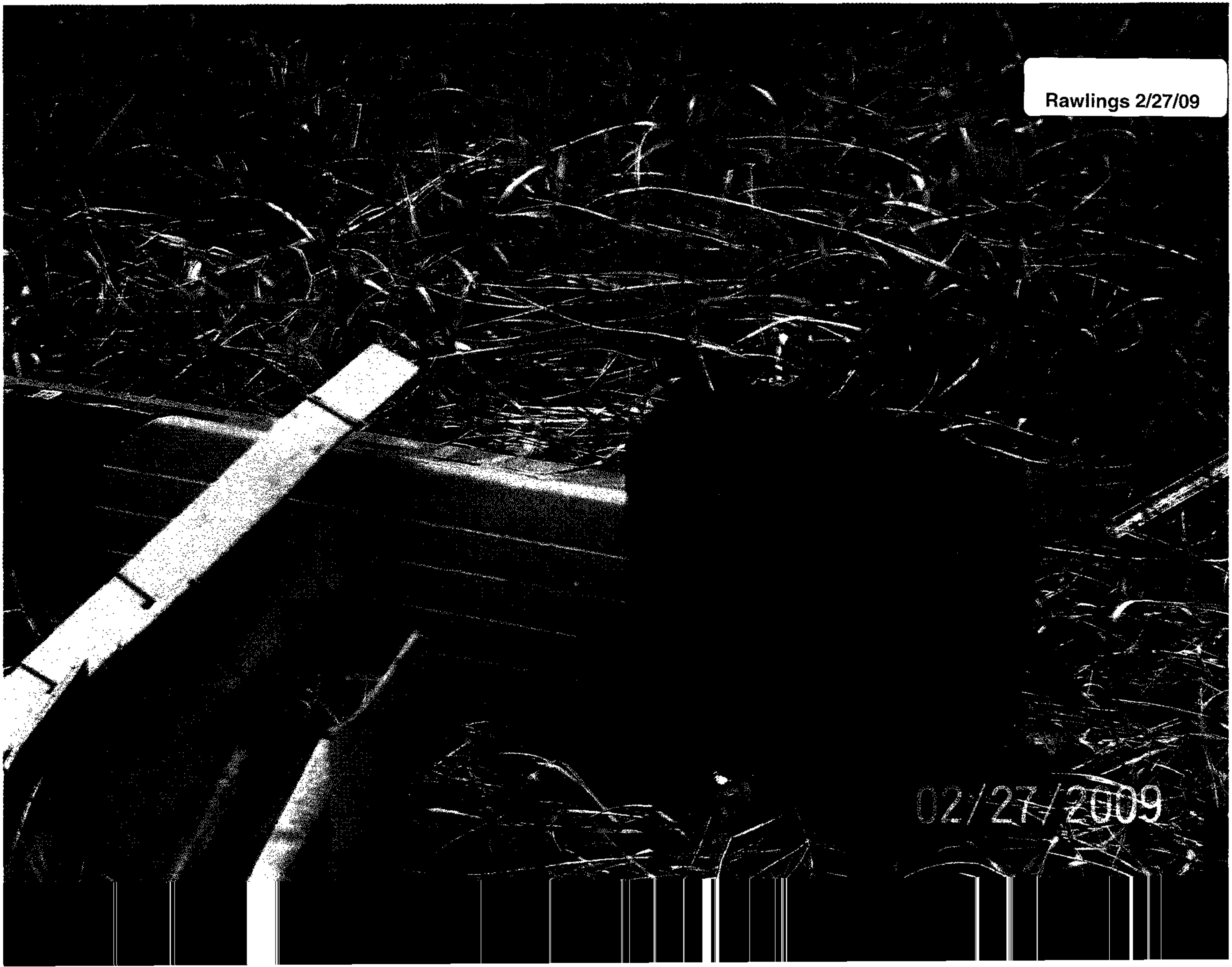
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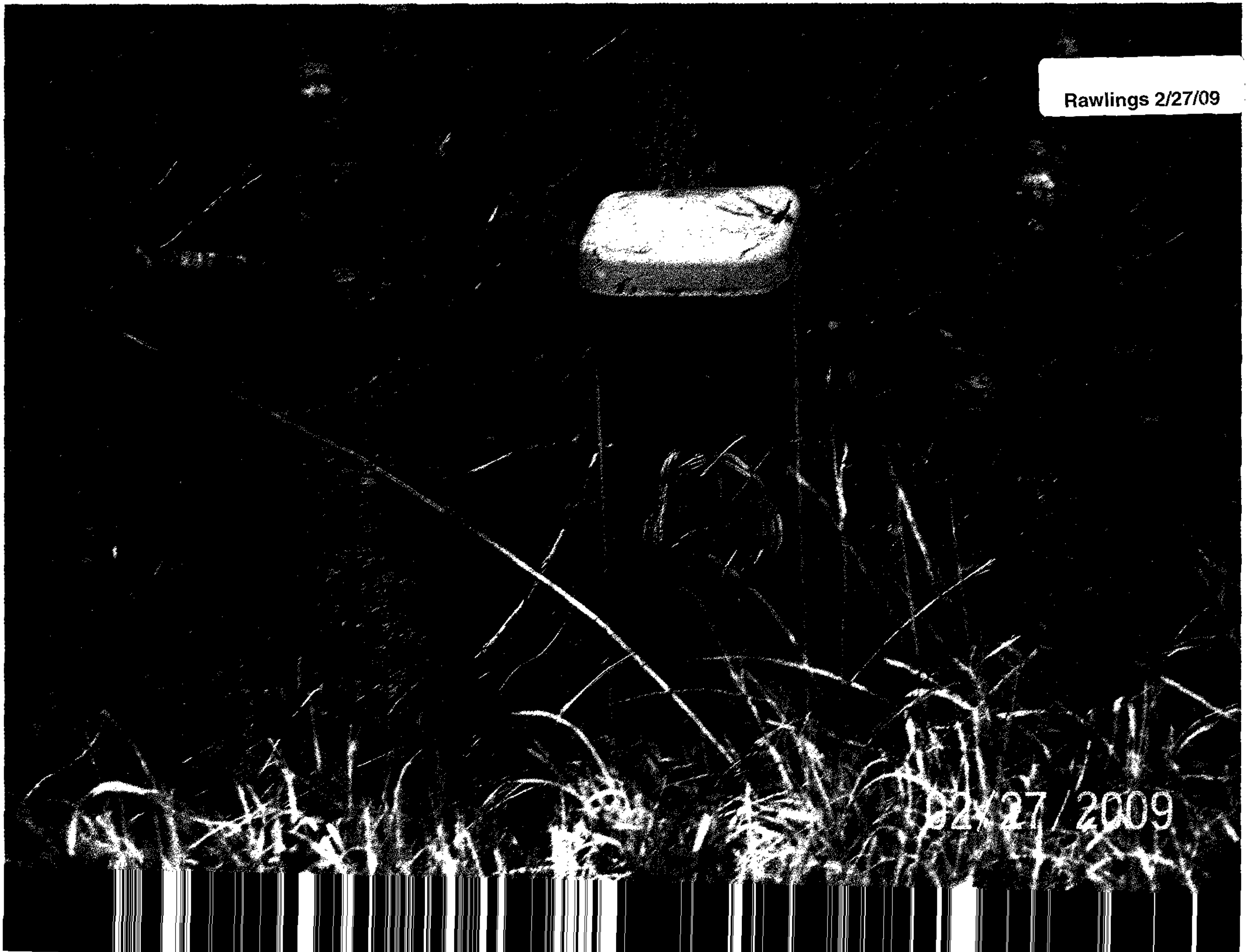
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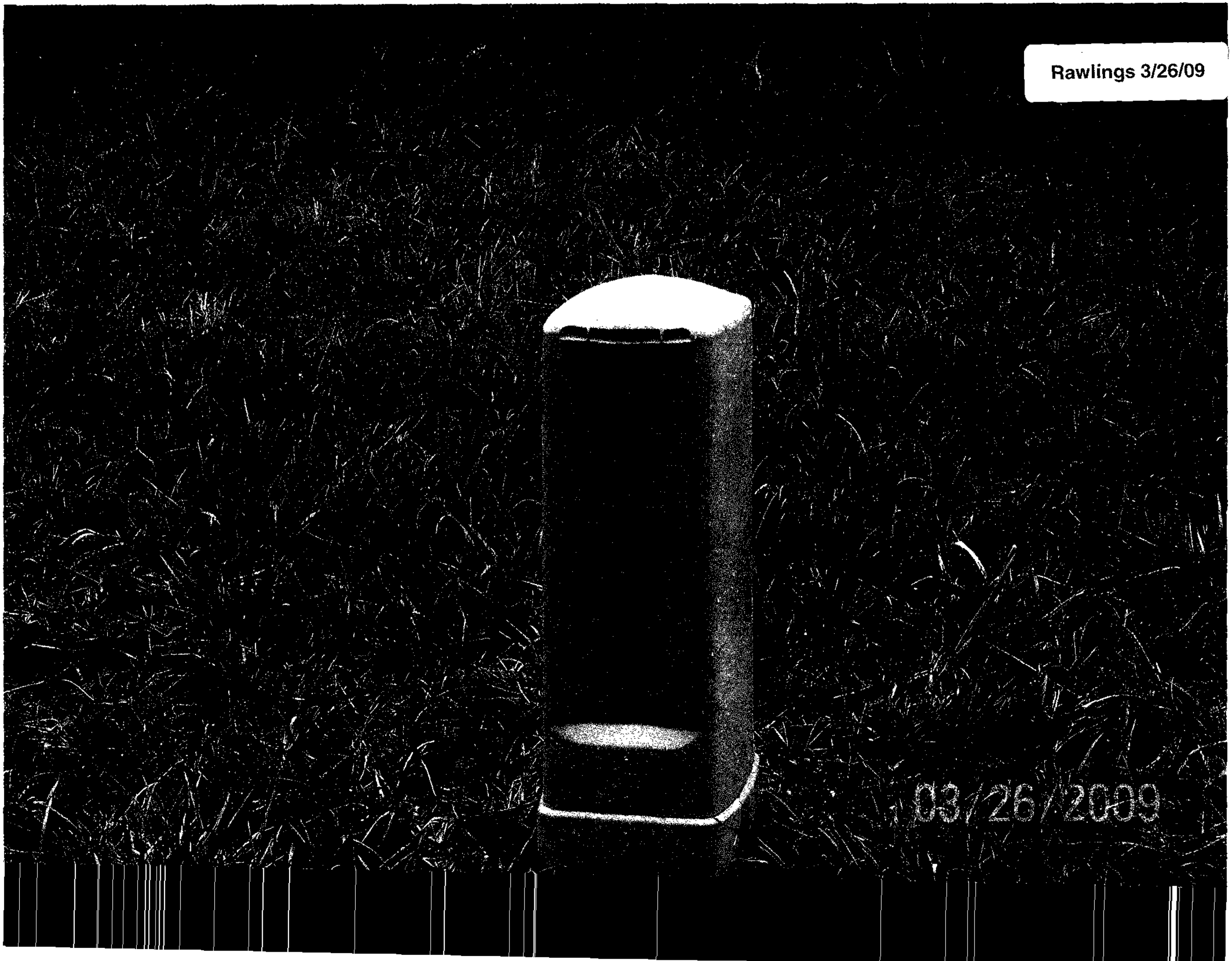
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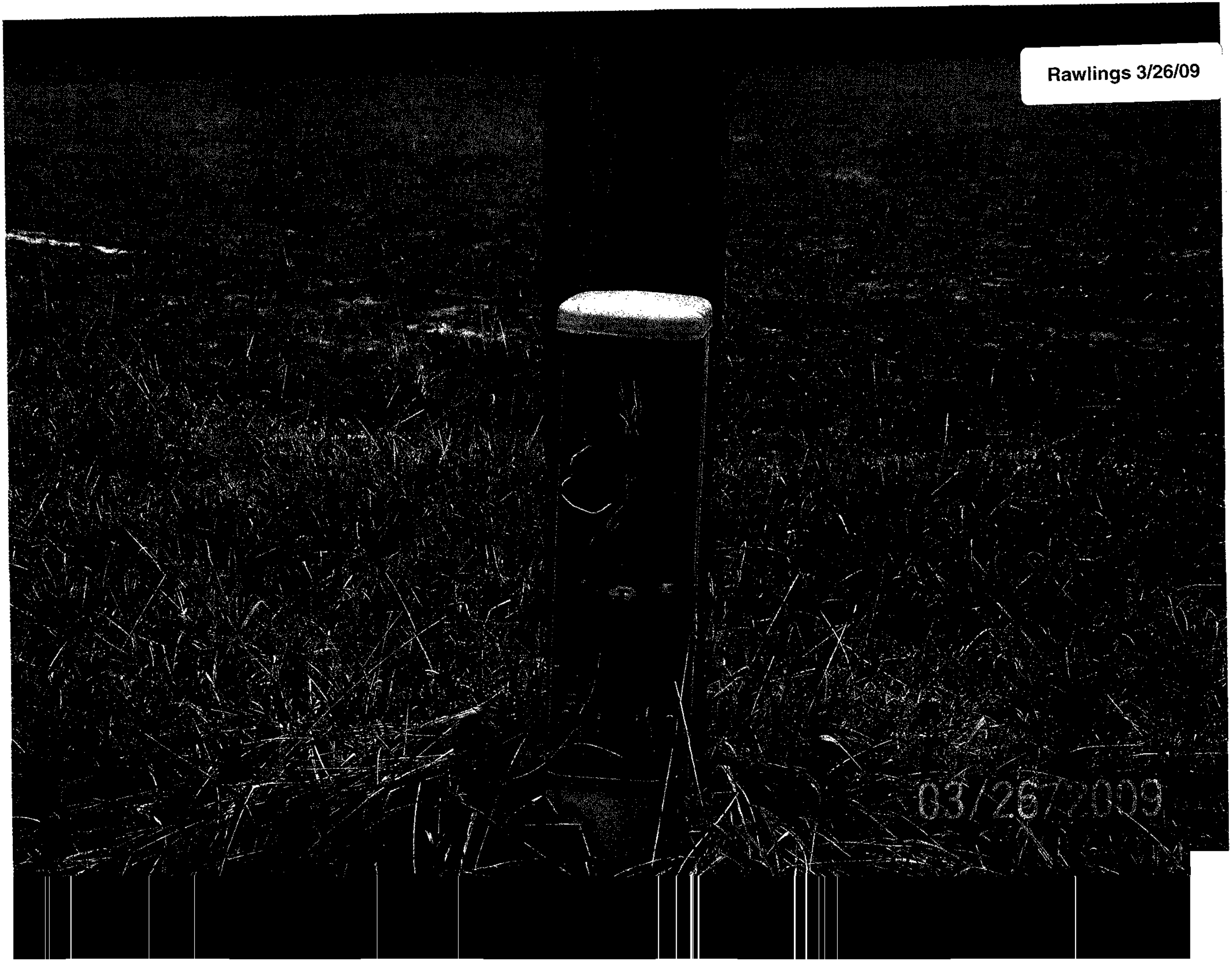
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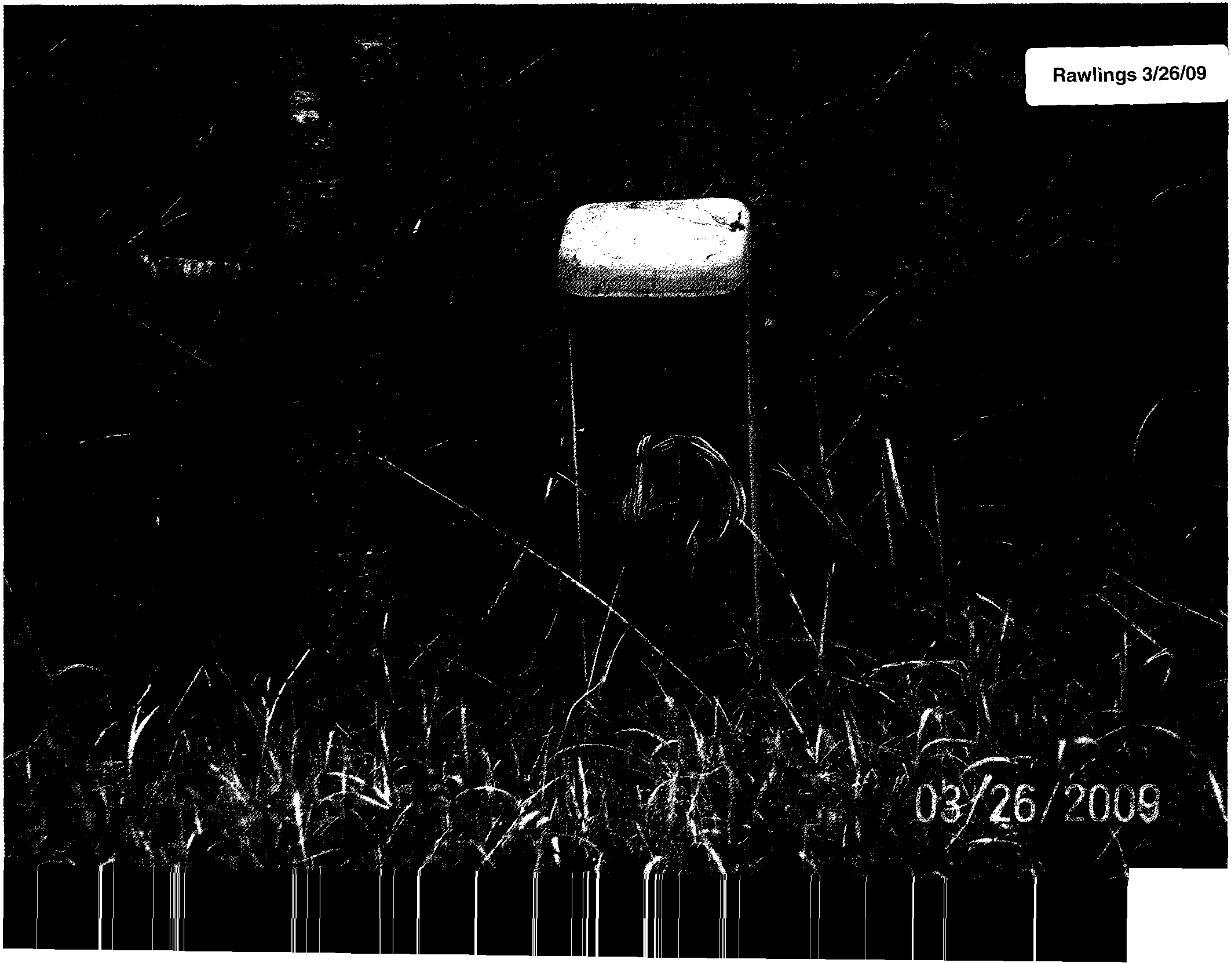
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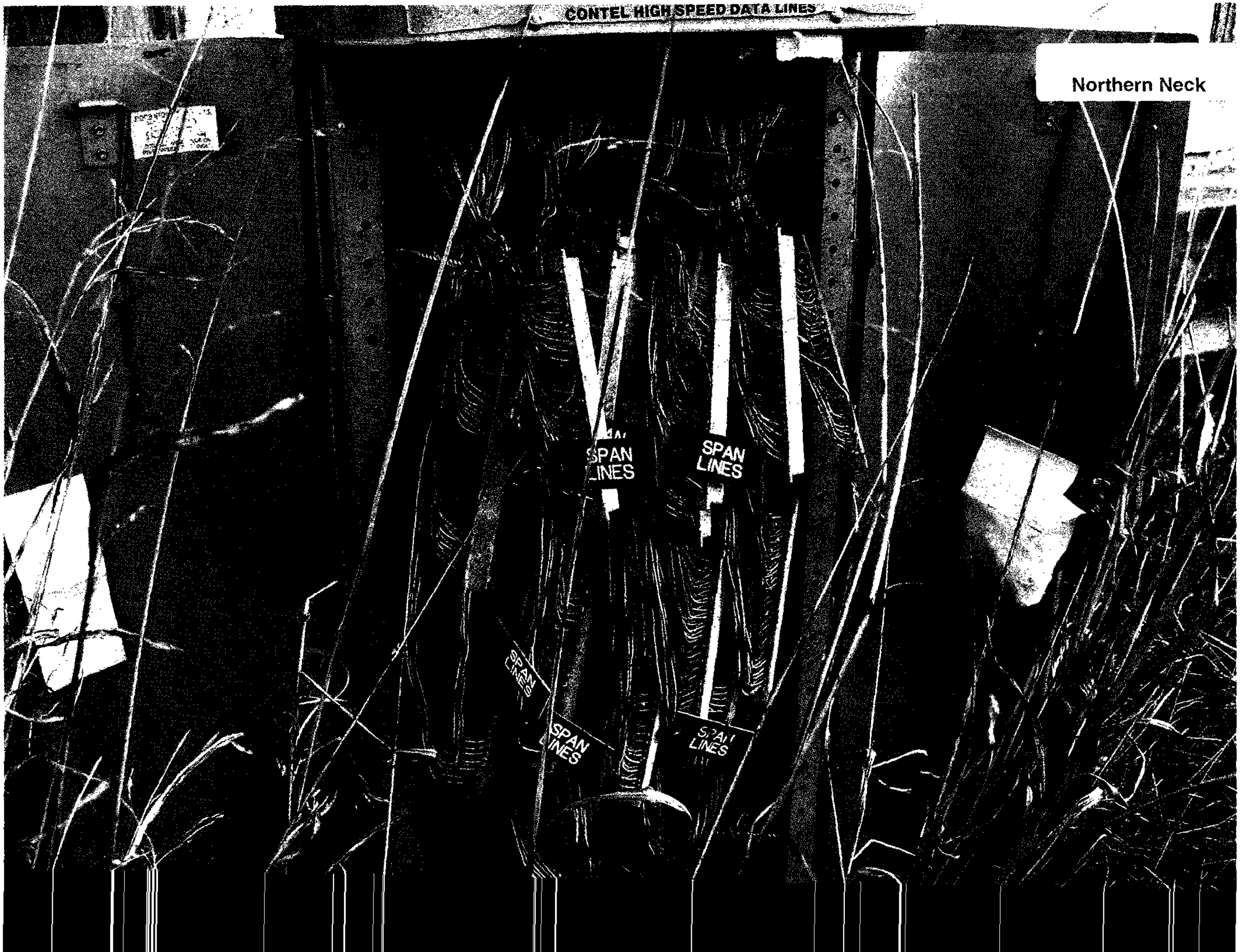
03/26/2009


Northern Neck
CONTEL HIGH SPEED DATA LINES
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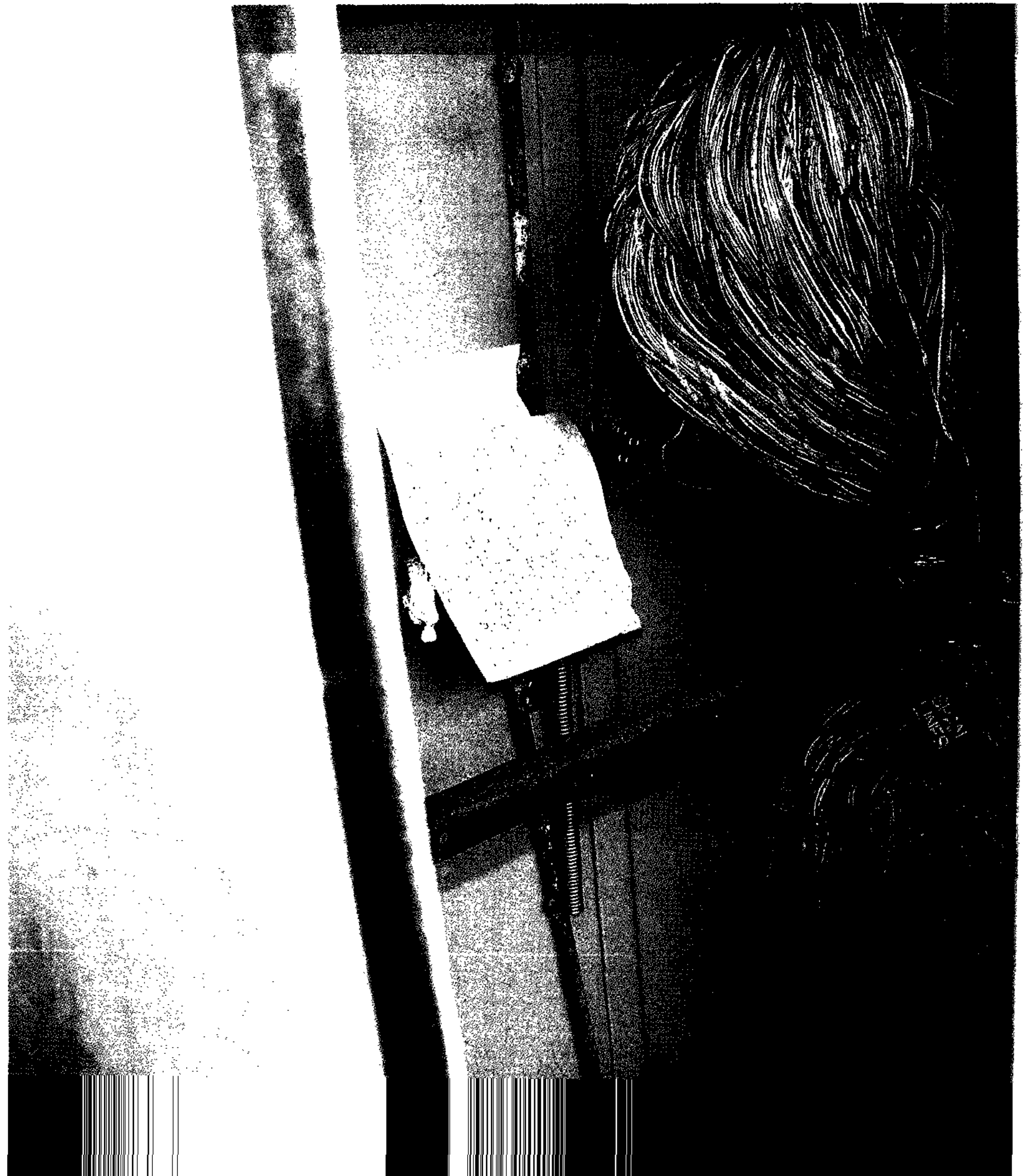

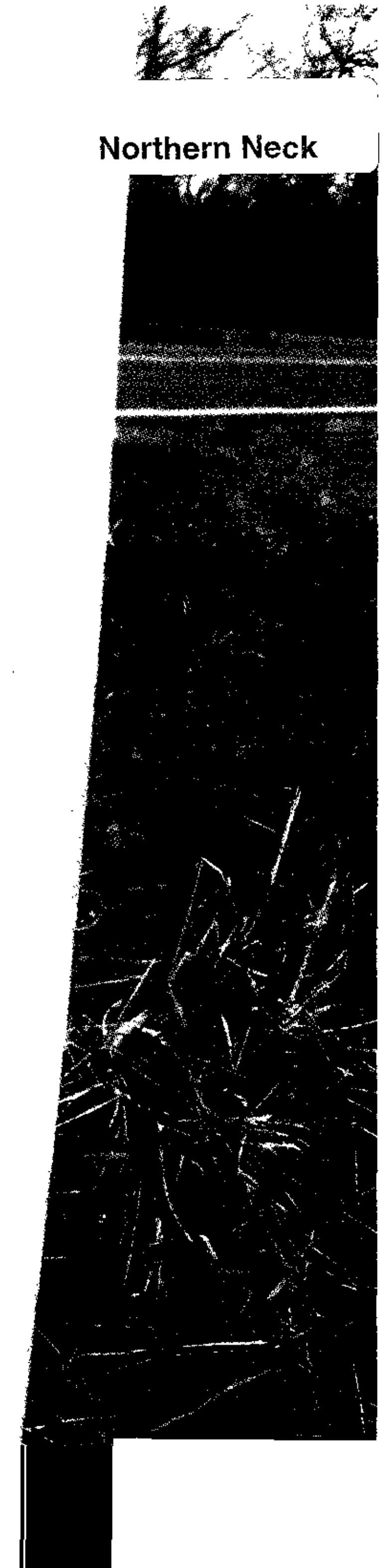

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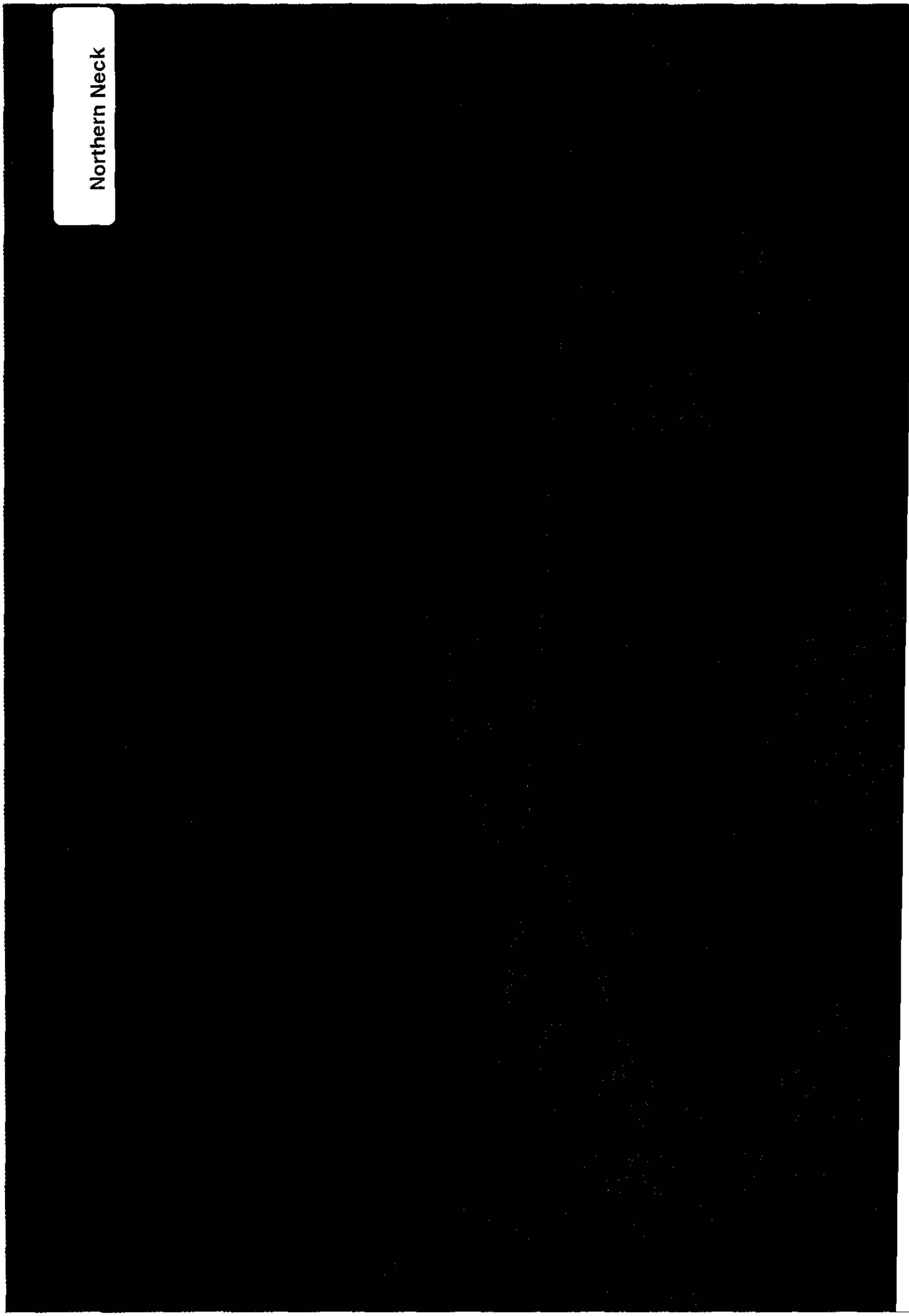



Northern Neck


Northern Neck

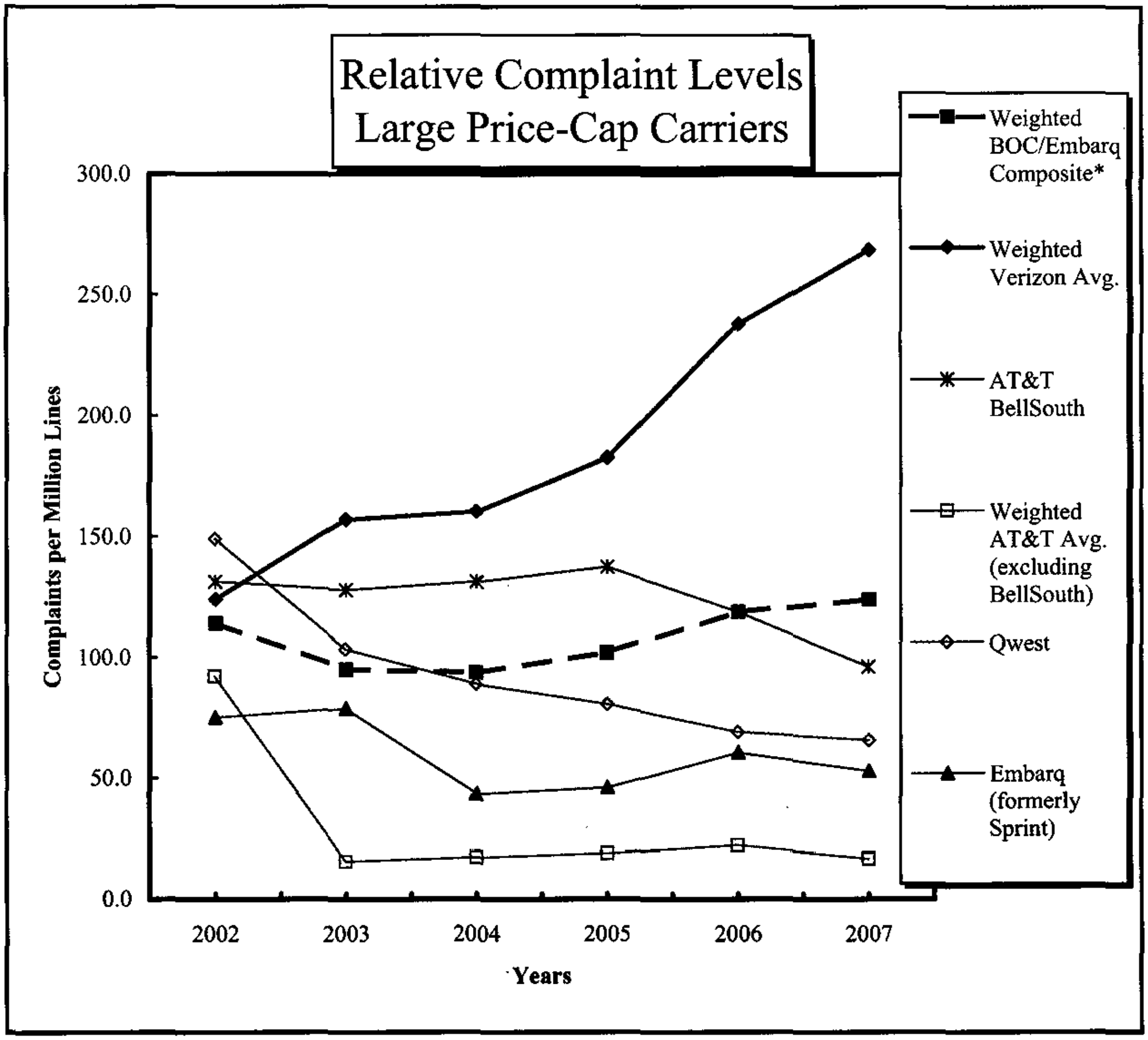
QUALITY OF SERVICE OF INCUMBENT LOCAL EXCHANGE CARRIERS

MARCH 2009

Industry Analysis and Technology Division
Wireline Competition Bureau
Federal Communications Commission

This report was authored by Jonathan M. Kraushaar of the Industry Analysis and Technology Division of the FCC's Wireline Competition Bureau. The author can be reached at (202) 418-0947; e-mail address: jonathan.kraushaar@fcc.gov; TTY: (202) 418-0484. This report is available for reference in the FCC's Reference Information Center, Courtyard Level, 445 12th Street, S.W. Copies may be purchased by calling Best Copy and Printing, Inc. at (202) 488-5300. The report can be downloaded from the Wireline Competition Bureau Statistical Reports Internet site at http://www.fcc.gov/wcb/stats.

Chart 1A

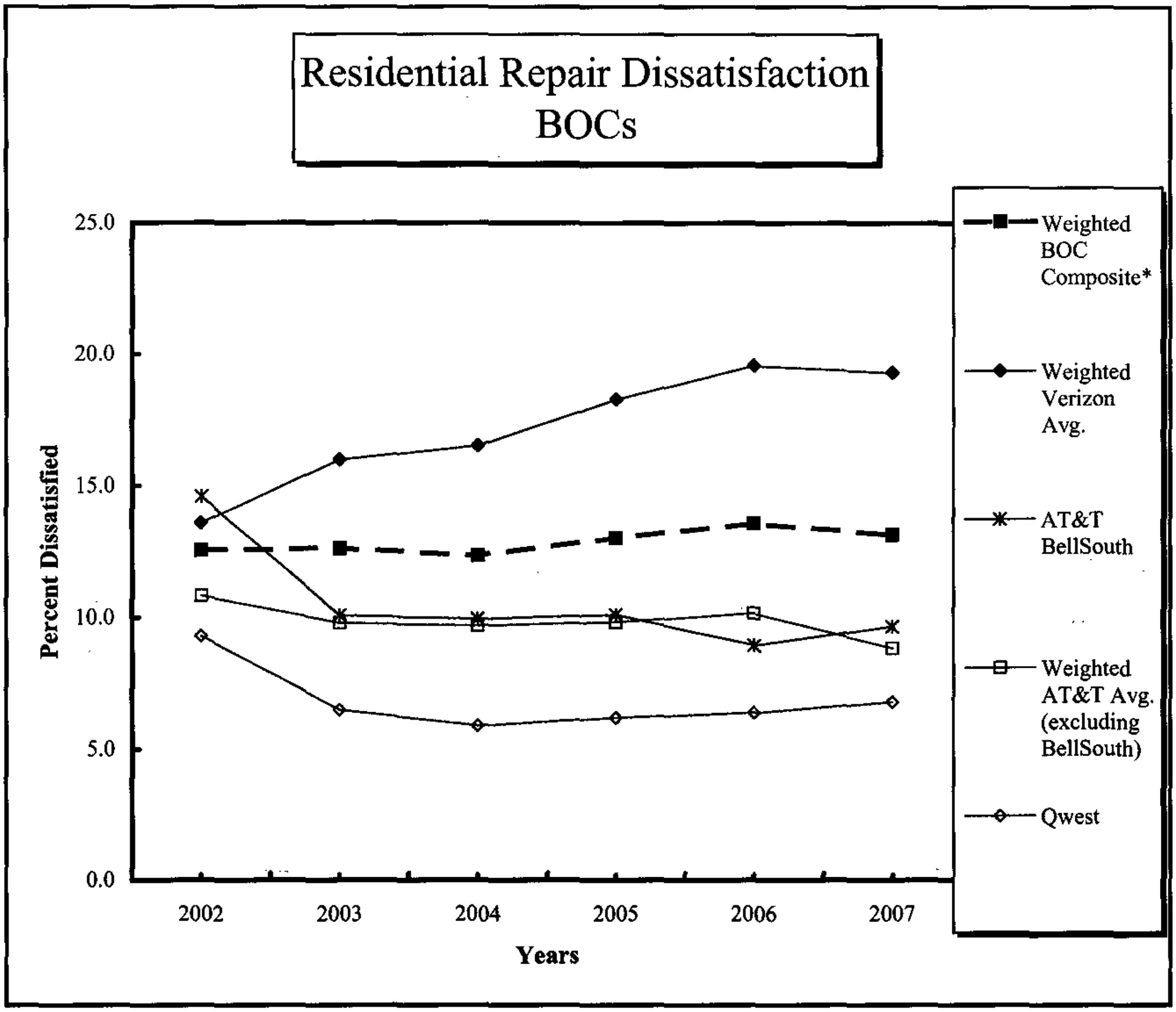


Average of Residential and Business Complaints per Million Access Lines
(Calculated Using Data from Company Provided Composites)

ARMIS 43-05 Report	2002	2003	2004	2005	2006	2007
AT&T Ameritech	213.4	13.2	11.2	12.0	8.3	13.1
AT&T BellSouth	131.5	128.0	131.4	137.7	119.1	96.4
AT&T Pacific	12.5	10.6	10.4	23.3	42.1	14.7
AT&T Southwestern	17.0	13.4	21.9	21.9	14.9	24.3
AT&T SNET	186.6	87.1	88.5	20.4	21.1	9.2
Qwest	149.2	103.5	89.1	80.8	69.3	65.8
Verizon GTE	60.3	79.1	104.8	161.0	171.2	160.0
Verizon North (Combined with Verizon South)						
Verizon South	151.8	190.7	184.7	191.9	266.7	315.9
Embarq (formerly Sprint)	75.3	78.9	43.3	46.0	60.6	52.9
Weighted BOC/Embarq Composite*	114.3	94.9	93.9	102.0	119.1	124.1

*Weighted composite is calculated using access line counts.

Chart 6

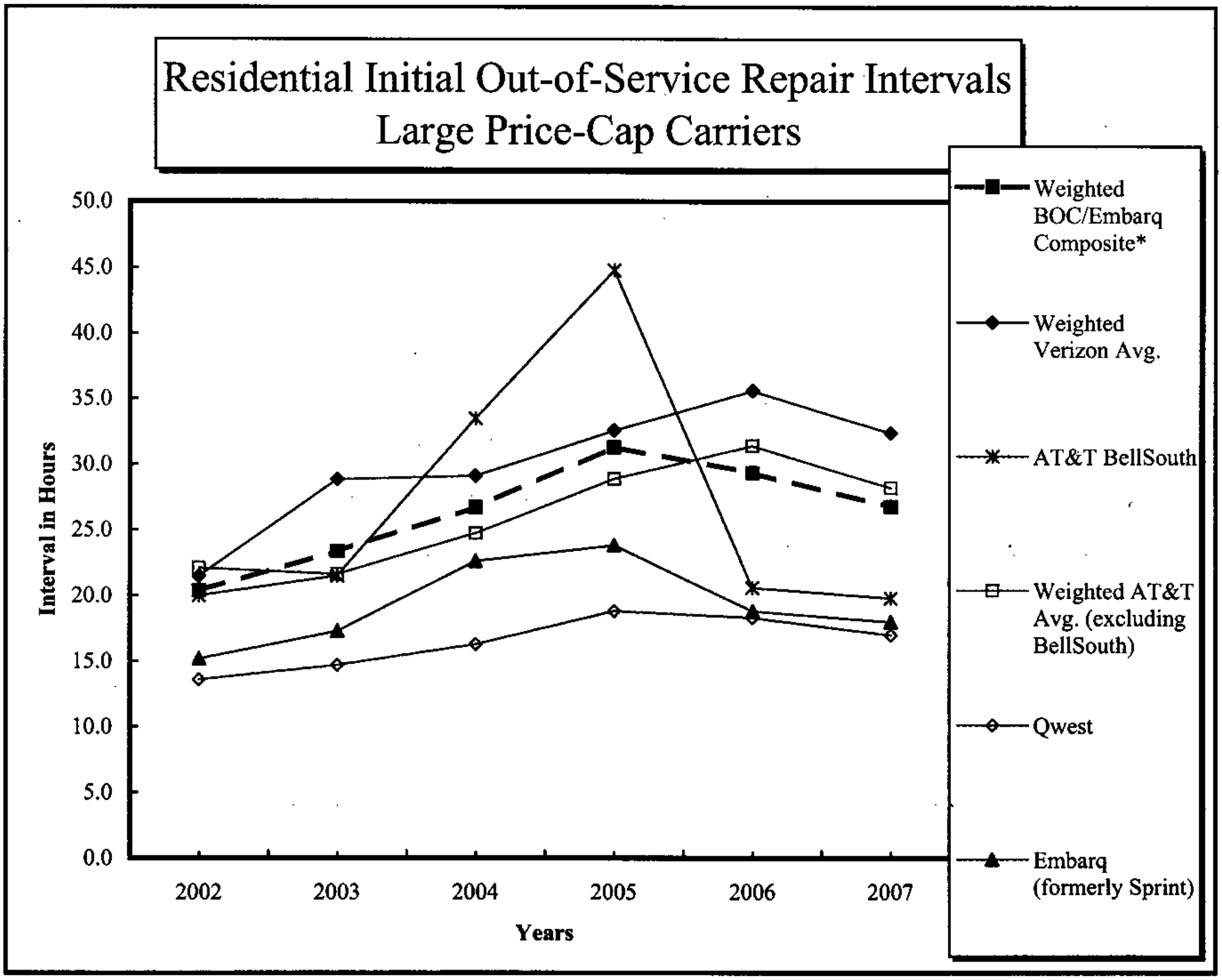


Percent Dissatisfied -- BOC Residential Repairs
(Using Company Provided Composites)

ARMIS 43-06 Report	2002	2003	2004	2005	2006	2007
AT&T Ameritech	14.6	11.4	11.0	11.1	9.5	9.2
AT&T BellSouth	14.6	10.1	10.0	10.1	9.0	9.7
AT&T Pacific	7.3	7.6	7.4	8.9	10.9	8.5
AT&T Southwestern	9.6	9.9	10.4	9.2	9.5	8.5
AT&T SNET	14.5	11.9	11.6	11.2	13.8	10.5
Qwest	9.3	6.5	5.9	6.2	6.4	6.8
Verizon GTE	11.9	11.2	14.0	16.1	16.4	16.0
Verizon North (Combined with Verizon South)						
Verizon South	15.3	20.8	19.0	20.4	22.7	22.6
Weighted BOC Composite*	12.5	12.6	12.3	13.0	13.6	13.1

* Weighted composite is calculated using access line counts.

Chart 7A

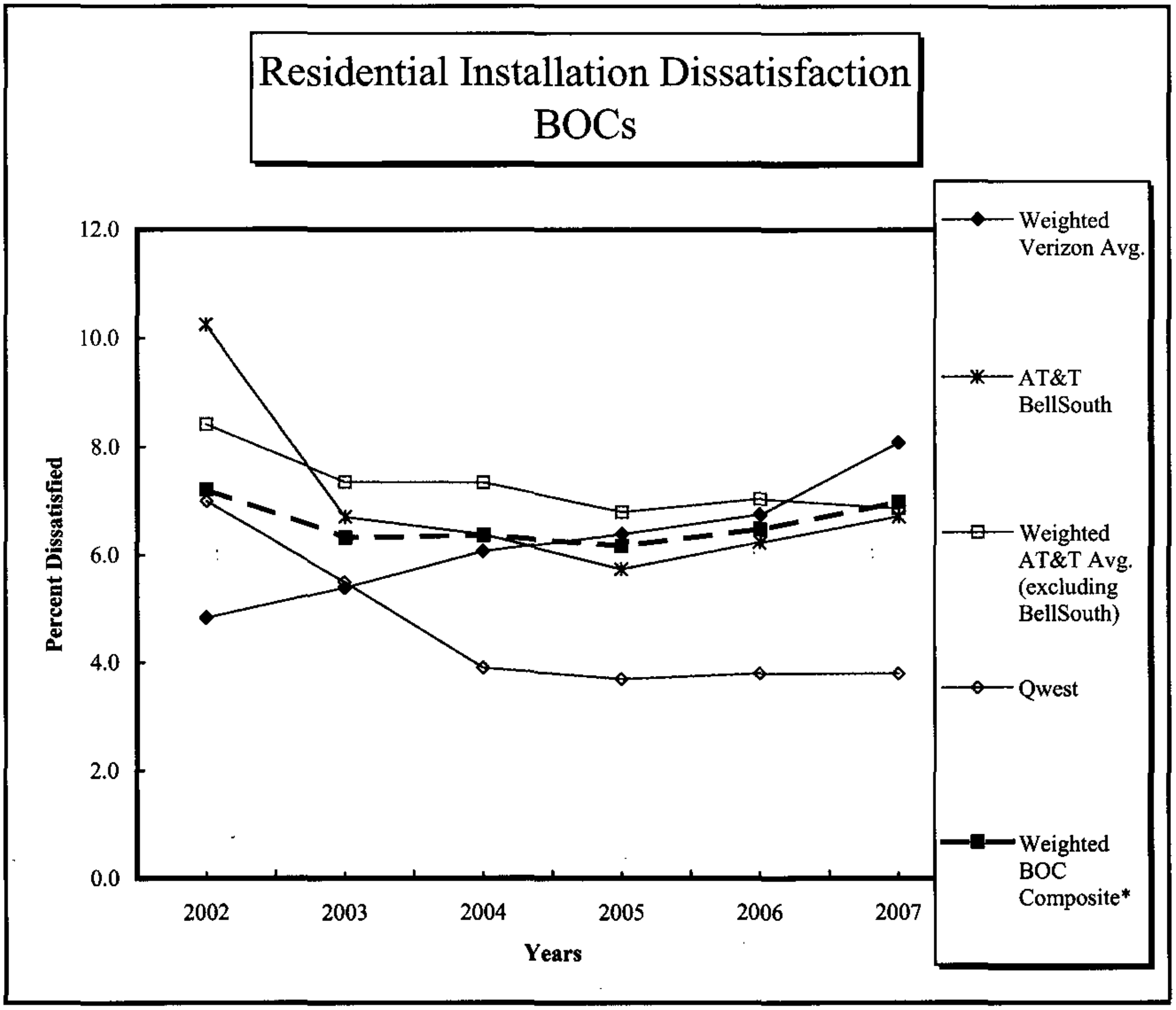


Average Initial Out-of-Service Repair Interval in Hours -- Residential Services
(Using Company Provided Composites)

ARMIS 43-05 Report	2002	2003	2004	2005	2006	2007
AT&T Ameritech	18.9	16.8	17.2	16.3	17.3	22.3
AT&T BellSouth	20.0	21.5	33.5	44.8	20.6	19.8
AT&T Pacific	25.9	25.8	28.8	45.2	52.6	32.2
AT&T Southwestern	21.0	22.1	29.0	24.6	22.4	31.2
AT&T SNET	27.4	26.7	27.2	30.6	34.4	22.2
Qwest	13.6	14.7	16.3	18.8	18.3	17.0
Verizon GTE	15.5	15.7	28.9	28.5	24.2	24.1
Verizon North (Combined with Verizon South)						
Verizon South	24.1	34.5	29.2	34.3	40.5	36.0
Embarq (formerly Sprint)	15.2	17.3	22.6	23.8	18.8	18.0
Weighted BOC/Embarq Composite*	20.4	23.3	26.7	31.3	29.3	26.7

* Weighted composite is calculated using access line counts.

Chart 3



Percent Dissatisfied --BOC Residential Installations
(Using Company Provided Composites)

ARMIS 43-06 Report	2002	2003	2004	2005	2006	2007
AT&T Ameritech	10.7	8.1	7.6	6.7	7.4	7.5
AT&T BellSouth	10.3	6.7	6.4	5.7	6.2	6.7
AT&T Pacific	6.4	6.1	6.1	6.4	6.9	5.7
AT&T Southwestern	8.1	7.9	8.4	7.1	6.6	7.2
AT&T SNET	7.3	7.6	8.6	8.4	8.3	9.9
Qwest	7.0	5.5	3.9	3.7	3.8	3.8
Verizon GTE	4.1	3.5	5.3	6.9	7.3	7.6
Verizon North (Combined with Verizon South)						
Verizon South	5.2	6.2	6.4	6.2	6.5	8.3
Weighted BOC Composite*	7.2	6.3	6.4	6.2	6.5	7.0

*Weighted composite is calculated using access line counts.

Table 1(d):
Company Comparison -- 2007 Customer Perception Surveys

Mandatory Price-Cap Companies:	AT&T Ameritech	AT&T BellSouth	AT&T Pacific	AT&T SWBT	AT&T SNET	Qwest	Verizon North	Verizon South	Verizon GTE
Percentage of Customers Dissatisfied									
Installations:									
Residential	7.49%	6.72%	5.65%	7.19%	9.85%	3.75%	6.93%	9.79%	7.63%
Small Business	8.58%	10.19%	6.70%	6.81%	9.97%	5.87%	10.26%	13.10%	11.66%
Large Business	NA	NA	NA	NA	NA	NA	27.78%	20.88%	19.64%
Repairs:									
Residential	9.22%	9.65%	8.49%	8.53%	10.54%	6.81%	18.20%	27.61%	16.02%
Small Business	8.32%	7.32%	6.63%	7.85%	6.88%	7.36%	12.31%	12.16%	9.84%
Large Business	NA	NA	NA	NA	NA	NA	17.24%	21.92%	19.26%
Business Office:									
Residential	10.55%	9.26%	7.18%	9.17%	11.13%	1.85%	7.65%	9.49%	12.08%
Small Business	6.47%	11.70%	5.72%	6.30%	8.81%	2.92%	6.64%	8.56%	11.66%
Large Business	NA	NA	NA	NA	10.59%	NA	42.75%	42.47%	27.47%

* Please refer to text for notes and data qualifications